



State of Wisconsin  
2013 - 2014 LEGISLATURE



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LRB-0082/PP2  
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**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Today

Regen

1 AN ACT *to repeal* 23.33 (8) (f) (title); *to renumber* 23.115 (2), 23.33 (4z) (a) 1.,  
2 23.33 (5m) (a), 23.33 (5m) (b) (intro.), 23.33 (5m) (b) 1. and 23.33 (5m) (d); *to*  
3 *renumber and amend* 23.115 (3), 23.33 (4z) (title), 23.33 (4z) (a) 2., 23.33 (4z)  
4 (b), 23.33 (5) (d), 23.33 (5m) (title), 23.33 (5m) (b) 2., 23.33 (5m) (b) 3., 23.33 (5m)  
5 (b) 4., 23.33 (5m) (b) 5., 23.33 (5m) (b) 6., 23.33 (5m) (c) (intro.), 23.33 (5m) (c)  
6 1., 23.33 (5m) (c) 2., 23.33 (5m) (c) 3., 23.33 (5m) (c) 4., 23.33 (5m) (c) 5., 23.33  
7 (5m) (c) 6., 23.33 (5m) (c) 7., 23.33 (8) (e), 23.33 (8) (f) 1., 23.33 (8) (f) 2., 23.33  
8 (13) (am), 23.33 (13) (cg), 23.33 (13) (f) and 23.45 (1) (d); *to amend* 20.370 (3)  
9 (at), 20.370 (5) (cx), 23.115 (title), 23.119 (1) (b), 23.33 (5) (title), 23.33 (9) (c),  
10 23.33 (13) (a), 23.35 (1) (intro.), 23.35 (1) (a), 23.35 (1) (b), 23.35 (1) (e), 23.35 (2),  
11 23.50 (1), 23.50 (3), 23.53 (1), 23.56 (1), 23.57 (1) (intro.), 23.58, 23.62 (1) (intro.),  
12 46.03 (18) (f), 59.54 (14) (g), 71.26 (1) (g), 78.01 (2) (e), 78.01 (2m) (f), 78.40 (1),  
13 110.07 (1) (a) 1., 110.07 (3), 322.111, 345.11 (1r), 346.94 (1), 350.12 (3) (a) 1.,  
14 800.02 (2) (b), 895.049, 901.053, 938.17 (1) (intro.), 940.09 (1m) (b), 940.09 (3),  
15 940.25 (1m) (b), 940.25 (3) and 973.09 (2) (a) 1. d.; and *to create* 20.370 (1) (is),

23.115 (2) (b), 23.119 (1) (at), 23.335, 23.336 (title), 23.336 (1), 23.336 (5) (d) 1.,  
23.45 (1) (d) 3., 341.056 and 343.05 (4) (b) 1m. of the statutes; **relating to:**  
operation of off-highway motorcycles, granting rule-making authority,  
providing penalties, and making appropriations.

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***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 20.370 (1) (is) of the statutes is created to read:

20.370 (1) (is) *Off-highway motorcycle registration fees.* All moneys received as fees under s. 23.335 (4) for payments under the landowner incentive payment program under s. 23.335 (13), for off-highway motorcycle projects and law enforcement activities under s. 23.335 (17), and for safety grants under s. 23.336 (3).

**SECTION 2.** 20.370 (3) (at) of the statutes is amended to read:

20.370 (3) (at) *Education and safety programs.* For programs or courses of instruction under ss. ~~23.33 (5) (d)~~ 23.336 (2), 29.591, 30.74 (1) (a) and 350.055 (1). All moneys remitted to the department under ss. ~~23.33 (5) (d)~~ 23.336 (2), 29.563 (12) (c) 2., 29.591 (3), 30.74 (1) (b), and 350.055 (1) shall be credited to this appropriation.

**SECTION 3.** 20.370 (5) (cx) of the statutes is amended to read:

20.370 (5) (cx) *Recreation aids — ~~all-terrain~~ off-highway vehicle safety program.* The amounts in the schedule for grants to ~~organizations to assist with the~~

← INSERT 2-14

1 ~~all-terrain vehicle safety program under s. 23.33 (5m) (d) under the recreational~~  
2 ~~vehicle safety grant program under s. 23.336 (3).~~ ← INSTEAD 3-2

3 SECTION 4. 23.115 (title) of the statutes is amended to read:

4 23.115 (title) **Designation of and signage for certain trails, etc and**  
5 **routes.**

6 SECTION 5. 23.115 (2) of the statutes is renumbered 23.115 (2) (a).

7 SECTION 6. 23.115 (2) (b) of the statutes is created to read:

8 23.115 (2) (b) Paragraph (a) does not apply to off-highway vehicle trails, as  
9 defined in s. 23.336 (1) (i), that are on land under the control of the department but  
10 that are maintained by off-highway associations, as defined in s. 23.336 (1) (d).

11 SECTION 7. 23.115 (3) of the statutes is renumbered 23.115 (2) (c) and amended  
12 to read:

13 23.115 (2) (c) ~~Subsection (2) Paragraph (a)~~ does not apply to snowmobile trails,  
14 as defined in s. 350.01 (17), that are on land under the control of the department but  
15 that are maintained by snowmobile clubs or other nonprofit organizations  
16 associations, as defined in s. 23.336 (1) (k).

17 SECTION 8. 23.119 (1) (at) of the statutes is created to read:

18 23.119 (1) (at) "Off-highway motorcycle" has the meaning given in s. 23.335  
19 (1) (p).

20 SECTION 9. 23.119 (1) (b) of the statutes is amended to read:

21 23.119 (1) (b) "Off-highway vehicle" means a motor-driven craft or vehicle  
22 principally manufactured for off-highway use but does not include a snowmobile, an  
23 all-terrain vehicle, or utility terrain vehicle, or an off-highway motorcycle.

24 SECTION 10. 23.33 (4z) (title) of the statutes is renumbered 23.336 (4) (title) and  
25 amended to read:

1           23.336 (4) (title) PUBLIC EDUCATION PROGRAM REGARDING INTOXICATED OPERATION.

2           **SECTION 11.** 23.33 (4z) (a) 1. of the statutes is renumbered 23.336 (4) (a) 1.

3           **SECTION 12.** 23.33 (4z) (a) 2. of the statutes is renumbered 23.336 (4) (a) 2. and  
4 amended to read:

5           23.336 (4) (a) 2. Provide for the development of signs briefly explaining the  
6 intoxicated operation of an all-terrain vehicle or utility terrain vehicle law and the  
7 intoxicated operation of an off-highway motorcycle law.

8           **SECTION 13.** 23.33 (4z) (b) of the statutes is renumbered 23.336 (4) (b) and  
9 amended to read:

10          23.336 (4) (b) The department shall develop and issue an educational pamphlet  
11 on the intoxicated operation of an all-terrain vehicle or utility terrain vehicle law to  
12 be distributed, ~~beginning in 1989~~, to persons issued all-terrain vehicle or utility  
13 terrain vehicle registration certificates under ~~subs.~~ s. 23.33 (2) and or (2g) or  
14 off-highway motorcycle registration certificates under s. 23.335 (3).

15          **SECTION 14.** 23.33 (5) (title) of the statutes is amended to read:

16          23.33 (5) (title) AGE RESTRICTIONS; ~~SAFETY CERTIFICATION PROGRAM.~~

17          **SECTION 15.** 23.33 (5) (d) of the statutes is renumbered 23.336 (2) and amended  
18 to read:

19          23.336 (2) **SAFETY CERTIFICATION PROGRAM** ~~ESTABLISHED.~~ The department shall  
20 establish or supervise the establishment of a program of instruction on ~~all-terrain~~  
21 ~~vehicle and utility terrain vehicle laws, including the intoxicated operation of an~~  
22 ~~all-terrain vehicle or utility terrain vehicle law, regulations, safety relating to the~~  
23 safe operation of off-highway vehicles and other related subjects. The department  
24 shall establish by rule an instruction fee for this program. The department shall  
25 issue certificates to persons successfully completing the program. An instructor

1 conducting the program of instruction under this ~~paragraph~~ subsection shall collect  
2 the fee from each person who receives instruction. The department may determine  
3 the portion of this fee, which may not exceed 50%, that the instructor may retain to  
4 defray expenses incurred by the instructor in conducting the program. The  
5 instructor shall remit the remainder of the fee or, if nothing is retained, the entire  
6 fee to the department. The department shall issue a duplicate certificate of  
7 accomplishment to a person who is entitled to a duplicate certificate of  
8 accomplishment and who pays a fee of \$2.75.

9 **SECTION 16.** 23.33 (5m) (title) of the statutes is renumbered 23.336 (3) (title)  
10 and amended to read:

11 23.336 (3) (title) SAFETY GRANT PROGRAM.

12 **SECTION 17.** 23.33 (5m) (a) of the statutes is renumbered 23.336 (3) (a).

13 **SECTION 18.** 23.33 (5m) (b) (intro.) of the statutes is renumbered 23.336 (3) (b)  
14 (intro.).

15 **SECTION 19.** 23.33 (5m) (b) 1. of the statutes is renumbered 23.336 (3) (b) 1.

16 **SECTION 20.** 23.33 (5m) (b) 2. of the statutes is renumbered 23.336 (3) (b) 2. and  
17 amended to read:

18 23.336 (3) (b) 2. The organization promotes the operation of ~~all-terrain~~ one or  
19 more types of off-highway vehicles in a manner that is safe and responsible and that  
20 does not harm the environment.

21 **SECTION 21.** 23.33 (5m) (b) 3. of the statutes is renumbered 23.336 (3) (b) 3. and  
22 amended to read:

23 23.336 (3) (b) 3. The organization promotes the operation of ~~all-terrain~~ one or  
24 more types of off-highway vehicles in a manner that does not conflict with the laws,

1 rules, and departmental policies that ~~relate~~ are applicable to the operation of  
2 ~~all-terrain~~ those types of off-highway vehicles.

3 **SECTION 22.** 23.33 (5m) (b) 4. of the statutes is renumbered 23.336 (3) (b) 4. and  
4 amended to read:

5 23.336 (3) (b) 4. The interest of the organization is limited to the recreational  
6 operation of ~~all-terrain~~ off-highway vehicles on ~~all-terrain vehicle~~ off-highway  
7 routes, off-highway trails, and other areas that are off the highways.

8 **SECTION 23.** 23.33 (5m) (b) 5. of the statutes is renumbered 23.336 (3) (b) 5. and  
9 amended to read:

10 23.336 (3) (b) 5. The organization has a board of directors that has a majority  
11 of members who are representatives of ~~all-terrain vehicle clubs~~ off-highway  
12 associations.

13 **SECTION 24.** 23.33 (5m) (b) 6. of the statutes is renumbered 23.336 (3) (b) 6. and  
14 amended to read:

15 23.336 (3) (b) 6. The organization provides support to ~~all-terrain vehicle clubs~~  
16 off-highway associations.

17 **SECTION 25.** 23.33 (5m) (c) (intro.) of the statutes is renumbered 23.336 (3) (c)  
18 (intro.) and amended to read:

19 23.336 (3) (c) (intro.) An organization receiving a grant under this subsection  
20 shall use the grant moneys to promote and provide support to the safety certification  
21 program established under sub. (5) (2) by conducting activities that include all any  
22 of the following:

23 **SECTION 26.** 23.33 (5m) (c) 1. of the statutes is renumbered 23.336 (3) (c) 1. and  
24 amended to read:

1           23.336 (3) (c) 1. Collecting data on the recreational operation of ~~all-terrain~~  
2 off-highway vehicles off the highways.

3           **SECTION 27.** 23.33 (5m) (c) 2. of the statutes is renumbered 23.336 (3) (c) 2. and  
4 amended to read:

5           23.336 (3) (c) 2. Providing assistance to the department in locating, recruiting,  
6 and training instructors for the safety certification program established under sub.  
7 (5)-(d) (2).

8           **SECTION 28.** 23.33 (5m) (c) 3. of the statutes is renumbered 23.336 (3) (c) 3. and  
9 amended to read:

10          23.336 (3) (c) 3. Attempting to increase participation by current and future  
11 ~~all-terrain vehicle~~ operators and owners in the safety certification program  
12 established under sub. (5)-(d) (2).

13          **SECTION 29.** 23.33 (5m) (c) 4. of the statutes is renumbered 23.336 (3) (c) 4. and  
14 amended to read:

15          23.336 (3) (c) 4. Assisting the department of natural resources and the  
16 department of tourism in creating an outreach program to inform local communities  
17 of ~~appropriate all-terrain vehicle~~ what is appropriate use in their communities ~~of the~~  
18 types of off-highway vehicles for which the organization was formed and of the  
19 economic benefits that may be gained from promoting tourism to attract ~~all-terrain~~  
20 ~~vehicle~~ recreational operators of these vehicles.

21          **SECTION 30.** 23.33 (5m) (c) 5. of the statutes is renumbered 23.336 (3) (c) 5. and  
22 amended to read:

23          23.336 (3) (c) 5. Attempting to improve and maintain ~~its~~ the organization's  
24 relationship with the department of natural resources, the department of tourism,  
25 ~~all-terrain~~ off-highway associations, off-highway vehicle dealers, ~~all-terrain~~

1 ~~off-highway vehicle manufacturers, snowmobile clubs, as defined in s. 350.138 (1)~~  
2 ~~(e), snowmobile alliances, as defined in s. 350.138 (1) (d), and other organizations~~  
3 ~~that promote the recreational operation of snowmobiles and snowmobile~~  
4 ~~associations.~~

5 SECTION 31. 23.33 (5m) (c) 6. of the statutes is renumbered 23.336 (3) (c) 6. and  
6 amended to read:

7 23.336 (3) (c) 6. Recruiting, assisting in the training of, and providing support  
8 to a corps of volunteers that will assist in providing safety instruction ~~on the safe and~~  
9 ~~responsible operation of all-terrain vehicles~~ that is given in the field to ~~all-terrain~~  
10 ~~vehiele operators of off-highway vehicles.~~

11 SECTION 32. 23.33 (5m) (c) 7. of the statutes is renumbered 23.336 (3) (c) 7. and  
12 amended to read:

13 23.336 (3) (c) 7. ~~Publishing~~ Assisting the department in publishing a manual  
14 ~~in cooperation with the department that shall~~ that will be used to train volunteers  
15 in monitoring the recreational operation of ~~all-terrain~~ off-highway vehicles for  
16 safety issues and other issues that relate to the responsible operation of ~~all-terrain~~  
17 off-highway vehicles.

18 SECTION 33. 23.33 (5m) (d) of the statutes is renumbered 23.336 (3) (d).

19 SECTION 34. 23.33 (8) (e) of the statutes is renumbered 23.336 (5) (a) and  
20 amended to read:

21 23.336 (5) (a) ~~Signs.~~ The department, in cooperation with the department of  
22 transportation, shall establish uniform ~~all-terrain vehicle route and trail~~ signs and  
23 standards ~~and uniform signs and standards~~ for the operation of ~~utility terrain~~  
24 off-highway vehicles on ~~all-terrain vehicle~~ off-highway routes and off-highway  
25 trails. The standards may not require that any additional signs be placed on



1 all-terrain vehicle routes concerning the operation of all-terrain vehicles or utility  
2 terrain vehicles with snow removal devices attached.

3 **SECTION 35.** 23.33 (8) (f) (title) of the statutes is repealed.

4 **SECTION 36.** 23.33 (8) (f) 1. of the statutes is renumbered 23.336 (5) (b) and  
5 amended to read:

6 23.336 (5) (b) No person may intentionally remove, damage, deface, move,  
7 obstruct, or interfere with the effective operation of any ~~uniform all-terrain vehicle~~  
8 ~~route or trail sign or standard or any~~ uniform sign or standard for relating to the  
9 operation of a utility terrain an off-highway vehicle on an all-terrain off-highway  
10 vehicle route or an off-highway vehicle trail if the sign or standard is legally placed  
11 by the state, any municipality or any authorized individual.

12 **SECTION 37.** 23.33 (8) (f) 2. of the statutes is renumbered 23.336 (5) (c) and  
13 amended to read:

14 23.336 (5) (c) No person may possess any ~~uniform all-terrain vehicle route or~~  
15 ~~trail sign or standard, or any~~ uniform sign or standard for relating to the operation  
16 of a utility terrain an off highway vehicle on an all-terrain off-highway vehicle  
17 route or an off-highway vehicle trail, of the type established by the department for  
18 the purpose of warning, instruction or information of instructing, or informing the  
19 public, unless he or she obtained the uniform sign or standard in a lawful manner.  
20 Possession of ~~a uniform all-terrain vehicle route or trail sign or standard or uniform~~  
21 such a sign or standard for the operation of a utility terrain vehicle on an all-terrain  
22 vehicle route or trail creates a rebuttable presumption of illegal possession.

23 **SECTION 38.** 23.33 (9) (c) of the statutes is amended to read:

24 23.33 (9) (c) *Signs.* In addition to the projects listed in par. (b), the department  
25 may provide aid under this subsection to a town, village, city or county for up to 100%

1 of the cost of placing signs that relate to the intoxicated operation of an all-terrain  
2 vehicle or utility terrain vehicle law and that are developed under sub. (4z) s. 23.336  
3 (4) (a) 2.

4 **SECTION 39.** 23.33 (13) (a) of the statutes is amended to read:

5 23.33 (13) (a) *Generally.* Except as provided in pars. ~~(am)~~ (ar) to (e), any person  
6 who violates this section shall forfeit not more than \$250.

7 **SECTION 40.** 23.33 (13) (am) of the statutes is renumbered 23.336 (5) (d) 2. and  
8 amended to read:

9 23.336 (5) (d) 2. ~~Penalty related to interference with signs and standards.~~  
10 Except as provided in par. ~~(eg)~~, a subd. 3., any person who violates sub. ~~(8) (f)~~ par.  
11 (b) or (c) and who, within the last 2 years prior to the arrest for the current violation,  
12 was 2 or more times previously convicted for violating ~~a provision of this chapter par.~~  
13 (b) or (c) shall forfeit not more than \$500.

14 **SECTION 41.** 23.33 (13) (cg) of the statutes is renumbered 23.336 (5) (d) 3. and  
15 amended to read:

16 23.336 (5) (d) 3. ~~Penalties related to causing death or injury; interference with~~  
17 ~~signs and standards.~~ A Any person who violates sub. ~~(8) (f) 1.~~ par. (b) is guilty of a  
18 Class H felony if the violation causes the death or injury, as defined in s. 30.67 (3) (b),  
19 of another person.

20 **SECTION 42.** 23.33 (13) (f) of the statutes is renumbered 23.336 (6) and amended  
21 to read:

22 23.336 (6) ~~Restoration or replacement of signs and standards.~~ In addition to  
23 any other penalty imposed for a violation of sub. (5) (b), the court may order the  
24 defendant to restore or replace any ~~uniform all-terrain vehicle route or trail sign or~~  
25 ~~standard, or any uniform sign or standard for the operation of a utility terrain vehicle~~

1 ~~on an all-terrain vehicle route or trail~~, that the defendant removed, damaged,  
2 defaced, moved, or obstructed.

3 **SECTION 43.** 23.335 of the statutes is created to read:

4 **23.335 Off-highway motorcycles. (1) DEFINITIONS.** In this section:

5 (a) "Agricultural purpose" has the meaning given in s. 23.33 (1) (ag).

6 (b) "Alcohol beverages" has the meaning specified under s. 125.02 (1).

7 (c) "Alcohol concentration" has the meaning given in s. 340.01 (1v).

8 (d) "Approved public treatment facility" has the meaning specified under s.  
9 51.45 (2) (c).

10 (e) "Controlled substance" has the meaning specified under s. 961.01 (4).

11 (f) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

12 (g) "Electric personal assistive mobility device" has the meaning given in s.  
13 340.01 (15pm).

14 (h) "Immediate family" means persons who are related as spouses, who are  
15 related as siblings, or who are related as parent and child.

16 (i) "Intoxicant" means any alcohol beverage, controlled substance, controlled  
17 substance analog, or other drug or any combination thereof.

18 (j) "Intoxicated operation of an off-highway motorcycle law" means sub. (11) (a)  
19 or (b) or a local ordinance in conformity therewith or, if the operation of an  
20 off-highway motorcycle is involved, s. 940.09 or 940.25.

21 (k) "Junked" means dismantled for parts or scrapped.

22 (L) "Land under the management and control of the person's immediate family"  
23 means land owned or leased by the person or a member of the person's immediate  
24 family over which the owner or lessee has management and control. This term

1 excludes land owned or leased by an organization of which the person or a member  
2 of the person's immediate family is a member.

3 (m) "Law enforcement officer" means an officer of the state traffic patrol under  
4 s. 110.07 (1), inspector under s. 110.07 (3), a conservation warden appointed by the  
5 department under s. 23.10, a county sheriff, or a municipal peace officer.

6 (n) "Limited use off-highway motorcycle" means an off-highway motorcycle  
7 that is not registered by the department of transportation for use on highways.

8 (o) "Local governmental unit" means a city, village, town, or county.

9 (p) "Off-highway motorcycle" means a two-wheeled motor vehicle that is  
10 straddled by the operator, that is equipped with handlebars, and that is designed for  
11 use off of a highway, regardless of whether it is also designed for use on a highway.

12 (q) "Off-highway motorcycle corridor" means an off-highway motorcycle trail  
13 or other established off-highway motorcycle corridor that is open to the public but  
14 does not include an off-highway motorcycle route.

15 (r) "Off-highway motorcycle dealer" means a person who is engaged in this  
16 state in the sale of off-highway motorcycles for a profit at retail.

17 (s) "Off-highway motorcycle route" means a highway or sidewalk designated  
18 for use by operators of off-highway motorcycles by the governmental agency having  
19 jurisdiction as authorized under this section.

20 (t) "Off-highway motorcycle trail" means a marked corridor on public property  
21 or on private lands subject to public easement or lease, designated for use by  
22 operators of off-highway motorcycles by the governmental agency having  
23 jurisdiction.

1 (u) "Operate" means to exercise physical control over the speed or direction of  
2 an off-highway motorcycle or to physically manipulate or activate any of the controls  
3 of an off-highway motorcycle necessary to put it in motion.

4 (v) "Operation" means the exercise of physical control over the speed or  
5 direction of an off-highway motorcycle or the physical manipulation or activation of  
6 any of the controls of off-highway motorcycle necessary to put it in motion.

7 (w) "Operator" means a person who operates an off-highway motorcycle, who  
8 is responsible for the operation of an off-highway motorcycle, or who is supervising  
9 the operation of an off-highway motorcycle.

10 (x) "Owner" means a person who has lawful possession of an off-highway  
11 motorcycle by virtue of legal title or equitable interest in the off-highway motorcycle  
12 which entitles the person to possession of the off-highway motorcycle.

13 (y) "Purpose of authorized analysis" means for the purpose of determining or  
14 obtaining evidence of the presence, quantity, or concentration of any intoxicant in a  
15 person's blood, breath, or urine.

16 (z) "Refusal law" means sub. (11) (h) or a local ordinance in conformity  
17 therewith.

18 (zb) "Small off-highway motorcycle" means an off-highway motorcycle that  
19 has either an engine certified by the manufacturer at not more than 100 cubic  
20 centimeters or an equivalent power unit.

21 (zc) "Test facility" means a test facility or agency prepared to administer tests  
22 under s. 343.305 (2).

23 (2) REGISTRATION. (a) *Requirement.* No person may operate and no owner may  
24 give permission for the operation of an off-highway motorcycle on an off-highway  
25 motorcycle trail, ~~on~~ <sup>or on</sup> an off-highway motorcycle route <sup>that is a sidewalk</sup> unless the <sup>motorcycle</sup>  
<sup>corridor</sup>

off-highway motorcycle is registered under this subsection, is exempt from such registration, or has a plate or sign attached in the manner authorized under sub. (5)

(c). No person may operate and no owner may give permission for the operation of a limited use off-highway motorcycle on an off-highway motorcycle route unless the limited use off-highway motorcycle is registered under this subsection.

(b) *Exemptions.* An off-highway motorcycle is exempt from the registration requirement under par. (a) if any of the following applies:

1. The off-highway motorcycle is owned by this state or by a local governmental unit or other political subdivision of this state, is used for enforcement or emergency purposes, and has displayed on its exterior a legible decal that is clearly visible.

2. The off-highway motorcycle is owned by the United States, by another state, or by a local governmental unit or other political subdivision of another state, and the name of the owner is displayed in a clearly visible manner on its exterior.

3. The off-highway motorcycle is covered by a valid registration of a federally recognized American Indian tribe or band, and all of the following apply:

a. The registration program of the tribe or band is covered by an agreement under s. 23.35.

b. The off-highway motorcycle displays the registration decal required by the tribe or band.

4. The off-highway motorcycle is operated exclusively in racing on a raceway facility.

5. The off-highway motorcycle is present in this state, for a period not to exceed 15 days, and is used exclusively as part of an advertisement being made for the manufacturer of the off-highway motorcycle.

1           6. The off-highway motorcycle is specified as exempt from registration by  
2 department rule.

3           (3) REGISTRATION; APPLICATION PROCESS. (a) *Public or private use.* Any  
4 off-highway motorcycle may be registered for public use. Only the department may  
5 register off-highway motorcycles for off-highway operation. Only an off-highway  
6 motorcycle that will be operated exclusively for agricultural purposes or will be  
7 operated exclusively by the owner of the motorcycle or a member of his or her  
8 immediate family on land owned or leased by the owner or a member of his or her  
9 immediate family may be registered for private use.

10           (b) *Sales by dealers.* If the seller of an off-highway motorcycle is an  
11 off-highway motorcycle dealer, the dealer shall require each buyer to whom he sells  
12 a motorcycle to complete an application for registration for public or private use and  
13 collect the applicable fee required under sub. (4) (d) at the time of the sale. The  
14 department shall provide application and registration receipt forms to off-highway  
15 motorcycle dealers. Each off-highway motorcycle dealer shall provide the buyer a  
16 registration receipt showing that the application and accompanying fee have been  
17 obtained by the off-highway motorcycle dealer. The off-highway motorcycle dealer  
18 shall mail the application and fee to the department no later than 7 days after the  
19 date of sale.

20           (c) *Other sales.* 1. If an off-highway motorcycle is sold or otherwise transferred  
21 by a person other than an off-highway motorcycle dealer and is not registered with  
22 the department, .....

\*\*\*\*NOTE: More language is needed here to address this scenario.

23           (d) *Action by department.* Upon receipt of an application for registration on a  
24 form provided by the department, the applicable fees under sub. (4) (d), and the

1 payment of any sales or use taxes that may be due, the department shall issue the  
2 a registration certificate to the applicant.

3 (e) *Transfers of registered motorcycles.* Upon transfer of ownership of an  
4 off-highway motorcycle which is registered for public or private use, the seller shall  
5 deliver the certificate to the transferee at the time of the transfer. The transferee  
6 shall complete an application for transfer on a form provided by the department and  
7 shall mail or deliver the form to the department within 10 days after the date of the  
8 transfer. INSERT 16-9

9 (4) REGISTRATION; CERTIFICATES AND DECALS. (a) *Period of validity; expiration.*

10 1. A registration certificate issued under sub. (3) for public use is valid ~~for 2 years.~~  
11 A registration certificate issued under sub. (3) for private use is valid until the  
12 ownership of the off-highway motorcycle is transferred. ← INSERT 16-12

13 2. For renewals of registration certificates for public use, the department shall  
14 notify each owner of the upcoming date of expiration at least 2 weeks before that date.

\*\*\*\*NOTE: I thought a time frame was necessary for this provision.

15 (b) *Content of certificate.* The certificate shall contain the registration number,  
16 the name and address of the owner, and any other information that the department  
17 determines is necessary.

18 (c) *Decal required.* 1. Each registration certificate issued under sub. (3) shall  
19 be accompanied by a registration decal. No person may operate an off-highway  
20 motorcycle for which a registration decal is required without having the decal so  
21 affixed except as provided in subd. 4.

22 2. The decal shall contain a reference to the state and to the department, the  
23 vehicle identification number, and the expiration date of the registration, if the  
24 off-highway motorcycle is being registered for public use.



1           3. The person required to register an off-highway motorcycle shall affix the  
2 registration decal with its own adhesive in a position on the exterior of the motorcycle  
3 where it is clearly visible and shall maintain the decal so that it is in legible condition.

4           4. A person may operate an off-highway motorcycle without having a  
5 registration decal affixed if the owner has been issued a validated registration  
6 receipt that shows that an application and the required fees for a registration  
7 certificate have been submitted to the department, and the person operating the  
8 off-highway motorcycle has the receipt in his or her possession. The person shall  
9 exhibit the receipt, upon demand, to any law enforcement officer.

10           (d) *Fees for certificates and decals.* 1. The fee for the issuance or renewal of a  
11 registration certificate for public use and accompanying decals is \$30.

12           2. The fee for the issuance or renewal of a registration certificate for private use  
13 and accompanying decals is \$15.

14           3. The fee for the issuance of a decal required under sub. (2) (b) 1. to a local  
15 governmental unit or other political subdivision is \$5. There is no fee for the issuance  
16 of the decal to the state.

17           4. The fee for transferring a certificate issued under sub. (3) (e) is \$5.

18           (e) *Duplicate certificates and decals.* 1. If a registration certificate or decal that  
19 was issued under par. (a) or (c) is lost or destroyed, the holder of the certificate or  
20 decal may apply for a duplicate on a form provided by the department. Upon receipt  
21 of the application and the fee required under subd. 2., the department shall issue a  
22 duplicate certificate or decal to the applicant.

23           2. The fee for the issuance of a duplicate certificate for public or private use is  
24 \$5, and the fee for a duplicate decal is \$5.

1 (f) *Junked motorcycles.* If an off-highway motorcycle is junked, the owner shall  
2 return the certificate of registration to the department marked "junked."

3 (5) REGISTRATION OF OFF-HIGHWAY MOTORCYCLE DEALERS. (a) A person who is an  
4 off-highway motorcycle dealer shall register with the department and obtain from  
5 the department a commercial off-highway motorcycle certificate. Upon receipt of the  
6 required fee under par. (e) and an application form provided by the department, the  
7 department shall issue the applicant a commercial registration certificate and 3  
8 accompanying decals.

9 (b) A commercial registration certificate is valid for 2 years.

10 (c) A person who is required to obtain an off-highway motorcycle certificate  
11 under par. (a) shall attach in a clearly visible place a plate or sign that is removable  
12 and temporarily but firmly mounted to any off-highway motorcycle that the person  
13 offers for sale or otherwise allows to be used whenever the off-highway motorcycle  
14 is being operated. A registration decal issued by the department shall be affixed to  
15 the plate or sign.

16 (d) If a registration certificate or decal that was issued under par. (a) is lost or  
17 destroyed, the holder of the certificate or decal may apply for a duplicate on a form  
18 provided by the department. Upon receipt of the application and the required fee  
19 under par. (e), the department shall issue a duplicate certificate or decal to the  
20 applicant.

21 (e) The fee for the issuance or renewal of a commercial off-highway motorcycle  
22 certificate with 3 accompanying decals is \$90. The fee for additional commercial  
23 registration decals is \$30 for each decal. The fee for the issuance of a duplicate  
24 commercial off-highway motorcycle certificate is \$5. The fee for each duplicate decal  
25 is \$2.

\*\*\*\*NOTE: I rearranged the fee structure above to give the dealer the option to replace the number of decals that were lost or destroyed instead of having to pay for 3 decals.

1 (f) An off-highway motorcycle dealer may not accept a limited use off-highway  
2 motorcycle in trade unless the off-highway motorcycle is currently registered by the  
3 department or is exempt from being registered by the department under sub. (2) (b).

4 (g) A commercial off-highway motorcycle certificate may not be transferred.

5 (6) NONRESIDENT TRAIL PASSES. (a) Except as provided in par. (b), no person may  
6 operate an off-highway motorcycle on an off-highway motorcycle trail or on an  
7 off-highway motorcycle route in this state unless a nonresident trail pass issued by  
8 the department under this subsection is permanently affixed on the exterior of the  
9 motorcycle where it is clearly visible.

10 (b) An off-highway motorcycle that is registered under sub. (3) or that is  
11 exempt from registration under sub. (2) (b) 1., 2., 4., or 5. is exempt from having a  
12 nonresident trail pass. The department may promulgate a rule to provide additional  
13 exemptions from the requirement of being issued a nonresident trail pass or from  
14 having to pay a fee for the pass. The department may promulgate a rule to exempt  
15 off-highway motorcycles that are exempt from registration under sub. (2) (b) 6. from  
16 having nonresident trail passes affixed as required under par. (a) or may promulgate  
17 a rule to exempt owners of such vehicles from having to pay any applicable  
18 nonresident trail pass fee.

19 (c) There is no fee for a nonresident trail pass issued for an off-highway  
20 motorcycle that is registered under s. 23.35. The department or Indian tribe or band  
21 shall issue a nonresident trail pass for such an off-highway motorcycle when it  
22 issues the registration certificate for the motorcycle. The department shall provide

1 Indian tribes or bands that register off-highway motorcycles under s. 23.35 with a  
2 supply of trail passes.

3 (d) The fee for an annual nonresident trail pass is \$35. The fee for a 5-day  
4 nonresident trail pass is \$20. Only the department may issue trail passes. Annual  
5 trail passes expire on March 31 of each year.

\*\*\*\*NOTE: Do you want to authorize issuing agents for these passes? If so, do you  
want part of the total fee to include an issuing fee? See s. 23.33 (2j) (c) 2. and (f).

\*\*\*\*NOTE: Do you want any restrictions on leasing OHMs that will be used  
off-highway? See s. 23.33 (2m).

6 (7) USE OF PROTECTIVE HEADGEAR. (a) No person under the age of 18 may operate  
7 or be a passenger on an off-highway motorcycle that is being operated on an  
8 off-highway motorcycle trail or an off-highway motorcycle route without wearing  
9 protective headgear of a type that is approved by the department.

10 (b) No person may operate or be a passenger on an off-highway motorcycle that  
11 is being operated on an off-highway motorcycle trail or on an off-highway motorcycle  
12 route without wearing glasses, wearing goggles, or wearing a protective face shield  
13 that is attached to headgear approved by the department.

14 (8) RULES OF OPERATION. (a) No person may operate an off-highway motorcycle;

15 1. In any careless way so as to endanger another person or the property of  
16 another.

17 2. At a rate of speed that is unreasonable under the circumstances.

18 3. On private property without the consent of the owner or lessee. Failure to  
19 post private property does not imply consent for off-highway motorcycle use.

20 4. On public property that is posted as closed to off-highway motorcycle  
21 operation or on which the operation of an off-highway motorcycle is prohibited by  
22 law.

1           5. On Indian lands without the consent of the tribal governing body or Indian  
2 owner. Failure to post Indian lands does not imply consent for off-highway  
3 motorcycle use.

\*\*\*\*NOTE: I added subd. 4. and 5. relating to operation on public property and  
Indian lands because I thought they are necessary.

4           6. To drive or pursue any animal except as a part of normal farming operations  
5 involving the driving of livestock. *if the*

6           7. At a speed exceeding 10 miles per hour, if the off-highway motorcycle is  
7 within 100 feet of a fishing shanty, *or within 100 feet of a person who is not in or on*  
8 *an all-terrain vehicle, a utility terrain vehicle, a snowmobile, or a motorcycle.*

9           8. At a speed exceeding 10 miles per hour, if the off-highway motorcycle is  
10 within 150 feet of a dwelling. *INSERT 21-10*

11 *10. 8.* In a manner which violates rules promulgated by the department. *10*

12           (b) The speed restriction under par. (a) 7. does not apply to a sanctioned race  
13 or derby if the sponsor of the sanctioned race or derby marks the race or derby route  
14 or track to warn spectators from entering the route or track. *INSERT 21-14*

15           (9) OPERATION ON HIGHWAYS; LIMITED USE MOTORCYCLES. (a) *Generally.* No person  
16 may operate a limited use off-highway motorcycle on the roadway portion of any  
17 highway unless one of the following applies:

18           1. Operation on the roadway is necessary to cross the roadway. The crossing  
19 of a roadway is authorized only if the crossing is done in the most direct manner  
20 practicable, if the crossing is made at a place where no obstruction prevents a quick  
21 and safe crossing, and if the operator stops the limited use off-highway motorcycle  
22 prior to entering the crossing and yields the right-of-way to any other vehicles,

1 pedestrians, or electric personal assistive mobility devices that are using the  
2 roadway.

3 2. Operation is necessary to cross a bridge, culvert, or railroad right-of-way.  
4 The crossing of a bridge, culvert, or railroad right-of-way is not authorized if the  
5 roadway is officially closed to off-highway motorcycle traffic. The crossing is  
6 authorized only if the crossing is done in the most direct manner practicable, if the  
7 crossing is made at a place where no obstruction prevents a quick and safe crossing,  
8 and if the operator stops the limited use off-highway motorcycle prior to entering the  
9 crossing and yields the right-of-way to any other vehicles, pedestrians, or electric  
10 personal assistive mobility devices that are using the roadway.

11 3. Operation is on a roadway which is seasonally not maintained for motor  
12 vehicle traffic. Such operation is authorized only during the seasons when no  
13 maintenance occurs and only if the roadway is not officially closed to off-highway  
14 motorcycle traffic.

15 4. Operation is on a roadway that is an off-highway motorcycle route. Such  
16 operation is authorized only for the extreme right side of the roadway except that left  
17 turns may be made from any part of the roadway which is safe given prevailing  
18 conditions.

19 5. Operation is exclusively for agricultural purposes and the limited use  
20 off-highway motorcycle is registered for private use under sub. (3). Such operation  
21 is authorized only for the extreme right side of the roadway except that left turns may  
22 be made from any part of the highway which is safe given prevailing conditions.

23 6. The operator of the limited use off-highway motorcycle is a person who holds  
24 a Class A permit or a Class B permit under s. 29.193 (2) and who is traveling for the  
25 purpose of hunting or is otherwise engaging in an activity authorized by the permit.

1 (b) *Freeways*. No person may operate a limited use off-highway motorcycle on  
2 any part of any freeway which is a part of the federal system of interstate and defense  
3 highways under any circumstances. No person may operate a limited use  
4 off-highway motorcycle on any part of any other freeway unless the department of  
5 transportation authorizes the use of limited use off-highway motorcycles on that  
6 freeway.

\*\*\*\*NOTE: This draft does not contain a provision that is similar to the one found  
in s. 23.33 (4) (c) 2., which deals with operating OHMs during derbies, races, and special  
events. Please let me know if you want this provision included.

\*\*\*\*NOTE: I did not include a provision that is similar to the one found in s. 23.33  
(4) (d) 7., which deals with operation on roadways that are trails. By definition, a roadway  
is never a trail unless it is seasonally not maintained, and that scenario is covered under  
par. (a) 3. above.

7 (10) OPERATION ADJACENT TO ROADWAY. (a) *Location of operation*. 1. A person  
8 may operate an off-highway motorcycle adjacent to a roadway of a town highway  
9 that is designated as an off-highway motorcycle route or an off-highway motorcycle  
10 trail without any restriction on how close the off-highway motorcycle is to the  
11 roadway.

12 2. A person may operate an off-highway motorcycle adjacent to a roadway of  
13 a U.S. numbered highway, a state highway, or a county highway that is designated  
14 an off-highway motorcycle route or an off-highway motorcycle trail provided that  
15 the operation occurs at a distance of 10 or more feet from the roadway. Travel on the  
16 median of a divided highway is prohibited except to cross.

17 (b) *Direction of operation*. 1. Except as provided in subd. 2., a person may  
18 operate an off-highway motorcycle on an off-highway motorcycle route or  
19 off-highway motorcycle trail adjacent to a road only in the same direction as motor  
20 vehicle traffic in the nearest lane.

1           2. A person may operate the off-highway motorcycle in either direction if any  
2 of the following applies:

3           a. The off-highway motorcycle is being operated during hours of daylight.

4           b. The off-highway motorcycle is being operated during hours of darkness and  
5 the off-highway motorcycle route or off-highway motorcycle trail is located at least  
6 40 feet from the roadway or is separated from the roadway by a head lamp barrier.

7           (c) *Other limitation.* A person operating an off-highway motorcycle on an  
8 off-highway motorcycle route adjacent to a roadway shall comply with the speed  
9 limits of the adjacent roadway and with rules promulgated by the department and  
10 approved by the department of administration.

+           \*\*\*\*NOTE: I found s. 23.33 (4) (e) ~~under current law~~ to be quite confusing. Also note  
that it was amended in 2011 Wisconsin Act 208. I redrafted this to make it clearer. Please  
review carefully with current law, as amended by Act 208, and let me know if you want  
any changes.

11           (11) INTOXICATED OPERATION. (a) *Operation.* 1. No person may operate an  
12 off-highway motorcycle while under the influence of an intoxicant to a degree which  
13 renders him or her incapable of safe operation of the off-highway motorcycle.

14           2. No person may engage in the operation of an off-highway motorcycle while  
15 the person has an alcohol concentration of 0.08 or more.

16           3. If a person has not attained the age of 21, the person may not engage in the  
17 operation of an off-highway motorcycle while he or she has an alcohol concentration  
18 of more than 0.0 but not more than 0.08.

19           4. A person may be charged with and a prosecutor may proceed upon a  
20 complaint based upon a violation of any combination of subd. 1. or 2. for acts arising  
21 out of the same incident or occurrence. If the person is charged with violating any  
22 combination of subd. 1. or 2., the offenses shall be joined. If the person is found guilty  
23 of any combination of subd. 1. or 2. for acts arising out of the same incident or



(20)  
(2)(c) 2. and 3.

1 occurrence, there shall be a single conviction for purposes of sentencing and for  
2 purposes of counting convictions under sub. Subdivisions 1. and 2. each require  
3 proof of a fact for conviction which the others do not require.

\*\*\*\*NOTE: Editing note. This cross-reference missing above will be provided in a subsequent version.

4 (b) *Operation causing injury.* 1. No person while under the influence of an  
5 intoxicant to a degree which renders him or her incapable of safe operation of an  
6 off-highway motorcycle may cause injury to another person by the operation of an  
7 off-highway motorcycle.

(20)(c) 2. and 3.

8 2. No person who has an alcohol concentration of 0.08 or more may cause injury  
9 to another person by the operation of an off-highway motorcycle.

10 3. A person may be charged with and a prosecutor may proceed upon a  
11 complaint based upon a violation of any combination of subd. 1. or 2. for acts arising  
12 out of the same incident or occurrence. If the person is charged with violating any  
13 combination of subd. 1. or 2. in the complaint, the crimes shall be joined under s.  
14 971.12. If the person is found guilty of any combination of subd. 1. or 2. for acts  
15 arising out of the same incident or occurrence, there shall be a single conviction for  
16 purposes of sentencing and for purposes of counting convictions under sub. Subdivisions 1. and 2. each require proof of a fact for conviction which the others do  
17 not require.

\*\*\*\*NOTE: Editing note. This cross-reference missing above will be provided in a subsequent version.

19 4. In an action under this paragraph, the defendant has a defense if he or she  
20 proves by a preponderance of the evidence that the injury would have occurred even  
21 if he or she had been exercising due care and even if he or she did not have an alcohol  
22 concentration of 0.08 or more.

1           (c) *Implied consent.* Any person who engages in the operation of an  
2 off-highway motorcycle upon the public highways of this state, or in those areas  
3 enumerated in par. (d), is considered to have given consent to provide one or more  
4 samples of his or her breath, blood, or urine for the purpose of authorized analysis  
5 as required under pars. (f) and (g). Any person who engages in the operation of an  
6 off-highway motorcycle within this state is considered to have given consent to  
7 submit to one or more chemical tests of his or her breath, blood, or urine for the  
8 purpose of authorized analysis as required under pars. (f) and (g).

9           (d) *Applicability of law.* The intoxicated operation of an off-highway  
10 motorcycle law applies to all of the following:

11           1. The operation of an off-highway motorcycle on any off-highway motorcycle  
12 trail or any off-highway motorcycle route.

13           2. The operation of any off-highway motorcycle on other premises or areas held  
14 out to the public for use of off-highway motorcycles whether such premises or areas  
15 are publicly or privately owned and whether or not a fee is charged for the use of an  
16 off-highway motorcycle.

17           3. The operation of a limited use off-highway motorcycle on a highway as  
18 authorized under sub. (9).

19           4. The operation of an off-highway motorcycle adjacent to a highway as  
20 authorized under sub. (10).

21           (e) *Preliminary breath screening.* 1. A person shall provide a sample of his or  
22 her breath for a preliminary breath screening test if a law enforcement officer has  
23 probable cause to believe that the person is violating or has violated the intoxicated  
24 operation of an off-highway motorcycle law and if, prior to an arrest, the law  
25 enforcement officer requested the person to provide this sample.

1           2. A law enforcement officer may use the results of a preliminary breath  
2 screening test for the purpose of deciding whether or not to arrest a person for a  
3 violation of the intoxicated operation of an off-highway motorcycle law or for the  
4 purpose of deciding whether or not to request a chemical test under par. (f).  
5 Following the preliminary breath screening test, chemical tests may be required of  
6 the person under par. (f).

7           3. The result of a preliminary breath screening test is not admissible in any  
8 action or proceeding except to show probable cause for an arrest, if the arrest is  
9 challenged, or to show that a chemical test was properly required of a person under  
10 par. (f). (20)(a) ✓

11           4. There is no penalty for a violation of subd. 1. Subsection ~~.....~~ and the general  
12 penalty provision under s. 939.61 do not apply to the violation.

\*\*\*\*NOTE: Editing note. This cross-reference missing above will be provided in a subsequent version.

13           (f) *Chemical tests; requirement.* 1. A person shall provide one or more samples  
14 of his or her breath, blood, or urine for the purpose of authorized analysis if he or she  
15 is arrested for a violation of the intoxicated operation of an off-highway motorcycle  
16 law and if he or she is requested to provide the sample by a law enforcement officer.  
17 A person shall submit to one or more chemical tests of his or her breath, blood, or  
18 urine for the purpose of authorized analysis if he or she is arrested for a violation of  
19 the intoxicated operation of an off-highway motorcycle law and if he or she is  
20 requested to submit to the test by a law enforcement officer.

21           2. A law enforcement officer requesting a person to provide a sample or to  
22 submit to a chemical test under subd. 1. shall inform the person of all of the following  
23 at the time of the request and prior to obtaining the sample or administering the test:

1 a. That he or she is deemed to have consented to tests under par. (c).

2 b. That a refusal to provide a sample or to submit to a chemical test constitutes  
3 a violation under par. (h) and is subject to the same penalties and procedures as a  
4 violation of par. (a) 1.

5 c. That in addition to the designated chemical test under par. (g) 2., he or she  
6 may have an additional chemical test under par. (g) 4.

7 3. A person who is unconscious or otherwise not capable of withdrawing  
8 consent is presumed not to have withdrawn consent under this paragraph, and if a  
9 law enforcement officer has probable cause to believe that the person violated the  
10 intoxicated operation of an off-highway motorcycle law, one or more chemical tests  
11 may be administered to the person without a request under subd. 1. and without  
12 providing information under subd. 2.

13 (g) *Chemical tests; procedures.* 1. Upon the request of a law enforcement officer,  
14 a test facility shall administer a chemical test of breath, blood, or urine for the  
15 purpose of authorized analysis. A test facility shall be prepared to administer 2 out  
16 of 3 of these tests for the purpose of authorized analysis. The department may enter  
17 into agreements for the cooperative use of test facilities.

18 2. A test facility shall designate one chemical test of breath, blood, or urine  
19 which it is prepared to administer first as the primary test for the purpose of  
20 authorized analysis.

21 3. A test facility shall designate another chemical test of breath, blood, or urine,  
22 other than the test designated under subd. 2., which it is prepared to administer as  
23 an additional chemical test for the purpose of authorized analysis.

24 4. If a person is arrested for a violation of the intoxicated operation of an  
25 off-highway motorcycle law or is the operator of an off-highway motorcycle involved

1 in an accident resulting in great bodily harm to or the death of someone and if the  
2 person is requested to provide a sample or to submit to a test under par. (f) 1., the  
3 person may request the test facility to administer the additional chemical test  
4 specified under subd. 3.. or, at his or her own expense, reasonable opportunity to have  
5 any qualified person administer a chemical test of his or her breath, blood or urine  
6 for the purpose of authorized analysis.

7 5. If a person is arrested for a violation of the intoxicated operation of an  
8 off-highway motorcycle law and if the person is not requested to provide a sample  
9 or to submit to a test under par. (f) 1., the person may request the test facility to  
10 administer a chemical test of his or her breath or may request, at his or her own  
11 expense, a reasonable opportunity to have any qualified person administer a  
12 chemical test of his or her breath, blood, or urine for the purpose of authorized  
13 analysis. If a test facility is unable to perform a chemical test of breath, the person  
14 may request the test facility to administer the chemical test designated under par.  
15 (f) 2. or the additional chemical test designated under par. (f) 3.

16 6. A test facility shall comply with a request under this paragraph to  
17 administer any chemical test it is able to perform.

18 7. The failure or inability of a person to obtain a chemical test at his or her own  
19 expense does not preclude the admission of evidence of the results of a chemical test  
20 required and administered under par. (f) or (g).

21 8. A chemical test of blood or urine conducted for the purpose of authorized  
22 analysis is valid as provided under s. 343.305 (6). The duties and responsibilities of  
23 the laboratory of hygiene, department of health services, and department of  
24 transportation under s. 343.305 (6) apply to a chemical test of blood or urine  
25 conducted for the purpose of authorized analysis under pars. (f) and (g). Blood may

1 be withdrawn from a person arrested for a violation of the intoxicated operation of  
2 an off-highway motorcycle law only by a physician, registered nurse, medical  
3 technologist, physician assistant, or person acting under the direction of a physician,  
4 and the person who withdraws the blood, the employer of that person, and any  
5 hospital where blood is withdrawn have immunity from civil or criminal liability as  
6 provided under s. 895.53.

7 9. A test facility which administers a chemical test of breath, blood, or urine  
8 for the purpose of authorized analysis under pars. (f) and (g) shall prepare a written  
9 report which shall include the findings of the chemical test, the identification of the  
10 law enforcement officer or the person who requested a chemical test, and the  
11 identification of the person who provided the sample or submitted to the chemical  
12 test. The test facility shall transmit a copy of the report to the law enforcement officer  
13 and the person who provided the sample or submitted to the chemical test.

14 (h) *Chemical tests; refusal.* No person may refuse a lawful request to provide  
15 one or more samples of his or her breath, blood, or urine or to submit to one or more  
16 chemical tests under par. (f). A person shall not be considered to have refused to  
17 provide a sample or to submit to a chemical test if it is shown by a preponderance of  
18 the evidence that the refusal was due to a physical inability to provide the sample  
19 or to submit to the test due to a physical disability or disease unrelated to the use of  
20 an intoxicant. Issues in any action concerning violation of par. (f) or this paragraph  
21 are limited to the following:

22 1. Whether the law enforcement officer had probable cause to believe the  
23 person was violating or had violated the intoxicated operation of an off-highway  
24 motorcycle law.

1           2. Whether the person was lawfully placed under arrest for violating the  
2 intoxicated operation of an off-highway motorcycle law.

3           3. Whether the law enforcement officer requested the person to provide a  
4 sample or to submit to a chemical test and provided the information required under  
5 par. (f) 2. or whether the request and information was unnecessary under par. (f) 3.

6           4. Whether the person refused to provide a sample or to submit to a chemical  
7 test.

8           (i) *Chemical tests; effect of test results.* The results of a chemical test required  
9 or administered under par. (f) or (g) are admissible in any civil or criminal action or  
10 proceeding arising out of the acts committed by a person alleged to have violated the  
11 intoxicated operation of an off-highway motorcycle law on the issue of whether the  
12 person was under the influence of an intoxicant or the issue of whether the person  
13 had alcohol concentrations at or above specified levels. Results of these chemical  
14 tests shall be given the effect required under s. 885.235. Paragraphs (f) to (h) do not  
15 limit the right of a law enforcement officer to obtain evidence by any other lawful  
16 means.

17           (j) *Report of arrest to department.* If a law enforcement officer arrests a person  
18 for a violation of the intoxicated operation of an off-highway motorcycle law or the  
19 refusal law, the law enforcement officer shall notify the department of the arrest as  
20 soon as practicable.

21           (k) *Release of persons arrested.* 1. A person arrested for a violation of the  
22 intoxicated operation of the off-highway motorcycle law may not be released until  
23 12 hours have elapsed from the time of his or her arrest or unless a chemical test  
24 administered under par. (a) 1. or 2. shows that the person has an alcohol  
25 concentration of 0.05 or less, except as provided in subd 2.

2. A person arrested for a violation of the intoxicated operation of the off-highway motorcycle law may be released to his or her attorney, spouse, relative, or other responsible adult at any time after arrest.

(12) AGE RESTRICTIONS; SAFETY CERTIFICATE REQUIREMENTS.. (a) *Under 12 years of age.* No person under 12 years of age may operate an off-highway motorcycle on a roadway under any circumstances and may not operate an off-highway motorcycle off a roadway unless one of the following applies:

1. He or she is operating an off-highway motorcycle for an agricultural purpose and he or she is under the supervision of a person over 18 years of age.

2. He or she is operating a small off-highway motorcycle and he or she is accompanied by a parent or guardian or by a person who is at least 18 years of age who has been designated by the parent or guardian.

\*\*\*NOTE: Note that the operation of a small OHM is not limited to an OHM trail.  
OK?

(b) *Type of supervision.* For purposes of par. (a) 1., supervision does not require that the person under 12 years of age be subject to continuous direction or control by the person over 18 years of age.

(c) *At least 12 years of age.* No person who is at least 12 years of age and born after January 1, 1998, may operate an off-highway motorcycle on an off-highway motorcycle trail or off-highway motorcycle route unless the person holds a valid certificate issued by the department or by another state or a province of Canada.

(d) *Exemption.* <sup>1.</sup> The restrictions under pars. (a) and (c) do not apply to a person who is operating an off-highway motorcycle on land under the management and control of the person's immediate family.

← INSERT 32-22  
\*\*\*NOTE: As drafted, a driver's license issued by DOT may not be used in lieu of a safety certificate for the use of an off-highway motorcycle on OHM trails and routes.  
OK?



\*\*\*\*NOTE: Any child under the age of 12 is not subject to the safety certificate requirement. OK?

1           **(13) LANDOWNER INCENTIVE PAYMENT PROGRAM.** (a) In this subsection “public  
2 off-highway motorcycle corridor” means an off-highway motorcycle trail or other  
3 established off-highway motorcycle corridor that is open to the public but does not  
4 include an off-highway motorcycle route.

\*\*\*\*NOTE: I defined “public off-highway motorcycle corridor” based on the definition found in s. 23.33 (2j).

5           (b) The department shall establish a program to make incentive payments to  
6 private landowners who permit public off-highway motorcycle corridors on their  
7 lands and who apply for the payments.

8           (c) An application is not considered complete until the forester or another  
9 employee of each county in which the public off-highway motorcycle corridor is  
10 located measures the length of the corridor in that county for the purpose of  
11 calculating the payment.

12           (d) The department shall allocate a certain amount for the incentive payments  
13 under this program for each fiscal year and shall promulgate rules to determine the  
14 amount of the individual incentive payments. If the total amount of incentive  
15 payments made in a given fiscal year would exceed the amount available for the  
16 payments, the department shall establish a system to prorate the payments.

17           (e) The department shall make the incentive payments under this subsection  
18 from the appropriation under s. 20.370 (1) (is).

19           **(14) EQUIPMENT REQUIREMENTS.** (a) No person may operate an off-highway  
20 motorcycle during hours of darkness unless it is equipped with a lighted headlamp  
21 and a lighted tail lamp. The headlamp is required to display a white light of sufficient  
22 illuminating power to reveal any person, vehicle, or substantial object at a distance

1 of at least 200 feet ahead of the off-highway motorcycle. The tail lamp is required  
2 to display a red light plainly visible from a distance of 500 feet to the rear.

3 (b) No person may who operate an off-highway motorcycle unless it is equipped  
4 with all of the following:

- 5 1. At least one brake operated either by hand or by foot.
- 6 2. Foot rests or pegs for the operator and any passenger.
- 7 3. A functioning spark arrester of a type approved by the U.S. forest service.
- 8 4. A functioning muffler unless the off-highway motorcycle is propelled by  
9 electric power.

10 (c) No person may operate an off-highway motorcycle unless the off-highway  
11 motorcycle is constructed in such a manner that noise emitted from the off-highway  
12 motorcycle does not exceed 96 decibels on the A scale as measured in the manner  
13 required under rules promulgated by the department.

14 (d) Paragraphs (a) to (c) do not apply to the operation of an off-highway  
15 motorcycle by the owner of the motorcycle or a member of his or her immediate family  
16 on land owned or leased by the owner or a member of his or her immediate family.

17 (15) ACCIDENTS. (a) If an operator of an off-highway <sup>motorcycle</sup> ~~motor vehicle~~ is involved  
18 in an accident that results in the death of any person, or in the injury of any person  
19 which requires the treatment of the person by a physician, the operator of each  
20 off-highway motorcycle involved in the accident shall give notice of the accident to  
21 a conservation warden or local law enforcement officer as soon as possible and shall  
22 file a written report of the accident with the department on the form provided by it  
23 within 10 days after the accident.

← INSERT 34-23

1 (c) ~~(b)~~ If the operator of an off-highway motorcycle is physically incapable of  
2 making the report required under par. (a) <sup>or (b) ✓</sup> and there was another witness to the  
3 accident capable of making the report, the witness may make the report.

4 (16) TRAILS AND ROUTES. (a) *Department authority.* The department shall  
5 encourage and supervise a system of off-highway motorcycle trails and off-highway  
6 motorcycle routes. The department may establish standards and procedures for  
7 designating off-highway motorcycle trails and off-highway motorcycle routes.

8 (b) *Trails.* A local governmental unit or the department may designate  
9 corridors through land which it owns or controls, or for which it obtains leases,  
10 easements, or permission, for use as off-highway motorcycle trails. A designation  
11 may include all or a portion of an all-terrain vehicle trail.

12 (c) *Routes.* A local governmental unit may designate highways as off-highway  
13 motorcycle routes. No state trunk highway or connecting highway may be  
14 designated as an off-highway motorcycle route unless the department of  
15 transportation approves the designation.

16 (d) *Restrictions.* The designating local governmental unit may specify effective  
17 periods for the use of off-highway motorcycle trails and off-highway motorcycle  
18 routes and may restrict or prohibit the operation of off-highway motorcycles during  
19 certain periods of the year.

20 (17) ENFORCEMENT ACTIVITIES AND PROJECTS; FUNDING. (a) *Enforcement*  
21 *activities.* The department may utilize moneys received as fees under subs. (4) and  
22 (5) for off-highway motorcycle registration aids administration and for state and  
23 local law enforcement operations related to off-highway motorcycles, including  
24 actual enforcement, accident reporting, and similar activities.

(b) *Off-highway motorcycle projects.* The department may use funding from the appropriation under s. 20.370 (1) (is) for off-highway motorcycle projects that are undertaken by the state or by local governmental units. Any of the following off-highway motorcycle projects are eligible for funding as either project is undertaken:

1. Acquisition of an easement or land in fee simple.
2. An off-highway motorcycle facility such as a parking area, riding area, shelter, toilets, or other improvement.
3. Development of off-highway motorcycle routes or off-highway motorcycle trails.
4. Development or maintenance of an all-terrain vehicle trail, route, or facility or a snowmobile trail, route, or facility, if the trail, route, or facility is open for use by off-highway motorcycles.
5. Maintenance of off-highway motorcycle trails and off-highway motorcycle routes.
6. Purchase of liability insurance.

(c) *Signs.* In addition to the projects listed in par. (b), the department may provide aid under this subsection to a local governmental unit for up to 100 percent of the cost of placing signs developed under s. 23.336 (4) (a) 2.

(d) *Charging of fees.* A local governmental unit that has not received funding under par. (b) in the prior fiscal year may charge a seasonal or daily use fee for an off-highway motorcycle area operated by the local governmental unit.

(18) LIABILITY OF LANDOWNERS. Section 895.52 applies to this section.

(18) LOCAL ORDINANCES. (a) Any local governmental unit may enact an ordinance which is in strict conformity with this section and rules promulgated by

1 the department under this section, if the ordinance encompasses all aspects  
2 encompassed by this section.

3 (b) If a local governmental unit enacts an ordinance regulating off-highway  
4 motorcycles, its clerk shall immediately send a copy of the ordinance to the  
5 department and to the office of any law enforcement agency of the local governmental  
6 unit having jurisdiction over any highway designated as an off-highway motorcycle  
7 route.

8 (19)<sup>(5)</sup> (20) ENFORCEMENT. (a) A law enforcement officer has the authority and  
9 jurisdiction to enforce this section and ordinances enacted in accordance with this  
10 section.

11 (b) No operator of an off-highway motorcycle may refuse to stop after being  
12 requested or signaled to do so by a law enforcement officer.

13 (21) PENALTIES. (a) *Generally.* Except as provided in par. (b), any person who  
14 violates this section shall forfeit not more than \$250.

15 (b) *Penalties related to intoxicated operation of an off-highway motorcycle.* 1.  
16 Except as provided under subds. 2. and 3., a person who violates sub. (11) (a) shall  
17 forfeit not less than \$150 nor more than \$300.

18 2. Except as provided under subd. 3., a person who violates sub. (11) (a) and  
19 who, within 5 years prior to the arrest for the current violation, was convicted  
20 previously under the intoxicated operation of an off-highway motorcycle law shall  
21 be fined not less than \$300 nor more than \$1,100 and shall be imprisoned not less  
22 than 5 days nor more than 6 months.

23 3. A person who violates sub. (11) (a) and who, within 5 years prior to the arrest  
24 for the current violation, was convicted 2 or more times previously under the  
25 intoxicated operation of an off-highway motorcycle law shall be fined not less than

1 \$600 nor more than \$2,000 and shall be imprisoned not less than 30 days nor more  
2 than one year in the county jail.

\*\*\*\*NOTE: Section 23.33 has a penalty enhancer for intoxicated operation when there is an underage passenger involved. Do you want a similar provision? See s. 23.33 (13) (bg).

\*\*\*\*NOTE: Editing note. The penalties under sub. (21) (b) and elsewhere in sub. (21) must be reworked.

3 (c) *Calculation of previous convictions.* In determining the number of previous  
4 convictions under par. (b) 2. and 3., convictions arising out of the same incident or  
5 occurrence shall be counted as one previous conviction.

6 (d) *Reporting convictions to the department.* Whenever a person is convicted  
7 of a violation of the intoxicated operation of an off-highway motorcycle law, the clerk  
8 of the court in which the conviction occurred, or the justice, judge, or magistrate of  
9 a court not having a clerk, shall forward to the department the record of such  
10 conviction. The record of conviction forwarded to the department shall state whether  
11 the offender was involved in an accident at the time of the offense.

12 (e) *Alcohol, controlled substances, or controlled substance analogs; assessment.*  
13 In addition to any other penalty or order, a person who violates sub. (11) (a) shall be  
14 ordered by the court to submit to and comply with an assessment by an approved  
15 public treatment facility for an examination of the person's use of alcohol, controlled  
16 substances, or controlled substance analogs. The assessment order shall comply  
17 with s. 343.30 (1q) (c) 1. a. to c. Intentional failure to comply with an assessment  
18 ordered under this paragraph constitutes contempt of court, punishable under ch.  
19 785.

\*\*\*\*NOTE: Editing note. The penalty subsection needs to be totally redone.

20 SECTION 44. 23.336 (title) of the statutes is created to read:

21 23.336 (title) **Recreational vehicles; safety programs; signage.**

INSERT  
38-19

1       **SECTION 45.** 23.336 (1) of the statutes is created to read:

2       **23.336 (1) DEFINITIONS.** In this section:

3       (a) "All-terrain vehicle" has the meaning given in s. 340.01 (2g).

4       (b) "All-terrain vehicle route" has the meaning given in s. 23.33 (1) (c).

5       (c) "All-terrain vehicle trail" has the meaning given in s. 23.33 (1) (d).

6       (d) "Off-highway association" means a club or other association consisting of  
7 individuals that promotes the recreational operation of any combination of the  
8 following:

9       1. All-terrain vehicles.

10      2. Off-highway motorcycles.

11      3. Utility terrain vehicles.

12      (e) "Off-highway motorcycle" has the meaning given in s. 23.335 (1) (p).

13      (f) "Off-highway motorcycle route" has the meaning given in s. 23.335 (1) (s).

14      (g) "Off-highway motorcycle trail" has the meaning given in s. 23.335 (1) (t).

15      (h) "Off-highway route" means an all-terrain vehicle route or an off-highway  
16 motorcycle trail.

17      (i) "Off-highway trail" means an all-terrain vehicle trail or an off-highway  
18 motorcycle trail.

19      (j) "Off-highway vehicle" means an all-terrain vehicle, an off-highway  
20 motorcycle, or a utility terrain vehicle.

21      (k) "Snowmobile association" means a snowmobile club, as defined in s. 350.138  
22 (1) (e) or a snowmobile alliance, as defined in s. 350.138 (1) (f), or other association  
23 consisting of individuals that promotes the recreational operation of snowmobiles.

24      (L) "Utility terrain vehicle" has the meaning given in s. 23.33 (1) (ng).

25      **SECTION 46.** 23.336 (5) (d) 1. of the statutes is created to read:

1           23.336 (5) (d) 1. Except as provided in subds. 2. and 3., any person who violates  
2       par. (a) or (b) shall forfeit not more than \$250.

3           **SECTION 47.** 23.35 (1) (intro.) of the statutes is amended to read:

4           23.35 (1) (intro.) The secretary shall enter into a reciprocal agreement with a  
5       federally recognized American Indian tribe or band in this state to exempt, from the  
6       registration and certification requirements of this state, boats, snowmobiles,  
7       all-terrain vehicles, and utility terrain vehicles, and off-highway motorcycles that  
8       are owned by tribal or band members and registered under a registration program  
9       established by the tribe or band if the tribe or band requests the agreement and if  
10      the registration program does all of the following:

11          **SECTION 48.** 23.35 (1) (a) of the statutes is amended to read:

12          23.35 (1) (a) Requires that boats, snowmobiles, all-terrain vehicles, and utility  
13      terrain vehicles, and off-highway motorcycles display decals or identification  
14      numbers showing valid registration by the tribe or band.

15          **SECTION 49.** 23.35 (1) (b) of the statutes is amended to read:

16          23.35 (1) (b) Employs registration decals and certificates of number that are  
17      substantially similar to those employed by the registration or certification programs  
18      of this state with regard to size, legibility, information content and placement on the  
19      boat, snowmobile, all-terrain vehicle, or utility terrain vehicle, or off-highway  
20      motorcycle.

21          **SECTION 50.** 23.35 (1) (e) of the statutes is amended to read:

22          23.35 (1) (e) Provides reciprocal exemptions, from the tribe's or band's  
23      registration requirements, for boats, snowmobiles, all-terrain vehicles, and utility  
24      terrain vehicles, and off-highway motorcycles that are registered or certified by this  
25      state that are substantially as favorable as the exemptions enjoyed by the tribe or



1 the band under the agreement. In this paragraph, "reciprocal exemption" means an  
2 exemption under the agreement that exempts from a tribe's or band's registration  
3 requirements, for operation within the boundaries of the tribe's or band's  
4 reservation, a boat, snowmobile, all-terrain vehicle, ~~or~~ utility terrain vehicle, or  
5 off-highway motorcycle that is owned by a person who is not a member of the tribe  
6 or band and that is registered or certified by this state to the same extent that the  
7 agreement exempts from state registration and certification requirements, for the  
8 operation outside the boundaries of the tribe's or band's reservation, a boat,  
9 snowmobile, all-terrain vehicle, ~~or~~ utility terrain vehicle, or off-highway motorcycle  
10 that is registered by the tribe or band.

11 **SECTION 51.** 23.35 (2) of the statutes is amended to read:

12 23.35 (2) An agreement entered into under sub. (1) may cover a registration  
13 program for boats, snowmobiles, all-terrain vehicles, ~~or~~ utility terrain vehicles, or  
14 off-highway motorcycles, or any combination thereof.

15 **SECTION 52.** 23.45 (1) (d) of the statutes is renumbered 23.45 (1) (d) (intro.) and  
16 amended to read:

17 23.45 (1) (d) (intro.) "Registration" means any ~~registration~~ of the following:

18 1. Any registration documentation, as defined in s. 23.33 (1) (jn) or s. 350.01  
19 (10t), ~~or that is issued by the department or its agents.~~

20 2. Any certification or registration documentation, as defined in s. 30.50 (3b),  
21 that is issued by the department or its agents.

22 **SECTION 53.** 23.45 (1) (d) 3. of the statutes is created to read:

23 23.45 (1) (d) 3. Any certificate issued by the department under s. 23.335 (3).

24 **SECTION 54.** 23.50 (1) of the statutes is amended to read:

23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of ss. 77.09, 90.21, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 and 299.64 (2), subch. VI of ch. 77, this chapter, and chs. 26 to 31, ch. 169, and ch. 350, and any administrative rules promulgated thereunder, violations specified under s. 280.98 (2) or 285.86, violations of ch. 951 if the animal involved is a captive wild animal, violations of rules of the Kickapoo reserve management board under s. 41.41 (7) (k), violations to which s. 299.85 (7) (a) 2. or 4. applies, or violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am), 23.335 (18) (a), or 30.77. ✓

**SECTION 55.** 23.50 (3) of the statutes is amended to read:

23.50 (3) All actions in municipal court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am), 23.335 (18) (a), or 30.77 shall utilize the procedure in ch. 800. The actions shall be brought before the municipal court having jurisdiction. Provisions relating to citations, arrests, questioning, releases, searches, deposits, and stipulations of no contest in ss. 23.51 (1m), (3), and (8), 23.53, 23.54, 23.56 to 23.64, 23.66, and 23.67 shall apply to violations of such ordinances. ✓

**SECTION 56.** 23.53 (1) of the statutes is amended to read:

23.53 (1) The citation created under this section shall, in all actions to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, and any rule of the Kickapoo reserve management board under s. 41.41

(7) (k) be used by any law enforcement officer with authority to enforce those laws, except that the uniform traffic citation created under s. 345.11 may be used by a traffic officer employed under s. 110.07 in enforcing s. 167.31 or by an officer of a law enforcement agency of a municipality or county or a traffic officer employed under s. 110.07 in enforcing s. 287.81. In accordance with s. 345.11 (1m), the citation shall not be used for violations of ch. 350 relating to highway use. The citation may be used for violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am), <sup>(18)</sup> ~~23.335 (19) (a)~~, or 30.77.

**SECTION 57.** 23.56 (1) of the statutes is amended to read:

23.56 (1) A person may be arrested for a violation of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am), <sup>(18)</sup> ~~23.335 (19) (a)~~, or 30.77, after a warrant that substantially complies with s. 968.04 has been issued. Except as provided in sub. (2), the person arrested shall be brought without unreasonable delay before a court having jurisdiction to try the action.

**SECTION 58.** 23.57 (1) (intro.) of the statutes is amended to read:

23.57 (1) (intro.) A person may be arrested without a warrant when the arresting officer has probable cause to believe that the person is committing or has committed a violation of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am), <sup>(18)</sup> ~~23.335 (19) (a)~~, or 30.77; and:

**SECTION 59.** 23.58 of the statutes is amended to read:

1           **23.58 Temporary questioning without arrest.** After having identified  
2 himself or herself as an enforcing officer, an enforcing officer may stop a person in  
3 a public place for a reasonable period of time when the officer reasonably suspects  
4 that such person is committing, is about to commit or has committed a violation of  
5 those statutes enumerated in s. 23.50 (1), any administrative rules promulgated  
6 thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7)  
7 (k), or any local ordinances enacted by any local authority in accordance with s. 23.33  
8 (11) (am), <sup>(18)</sup> ~~23.335 (19) (a)~~, or 30.77. Such a stop may be made only where the enforcing  
9 officer has proper authority to make an arrest for such a violation. The officer may  
10 demand the name and address of the person and an explanation of the person's  
11 conduct. Such detention and temporary questioning shall be conducted in the  
12 vicinity where the person was stopped.

13           **SECTION 60.** 23.62 (1) (intro.) of the statutes is amended to read:

14           23.62 (1) (intro.) Whenever an enforcing officer has probable cause to believe  
15 that a person subject to his or her authority is committing or has committed a  
16 violation of those statutes enumerated in s. 23.50 (1), any administrative rules  
17 promulgated thereunder, any rule of the Kickapoo reserve management board under  
18 s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance  
19 with s. 23.33 (11) (am), <sup>(18)</sup> ~~23.335 (19) (a)~~, or 30.77, the officer may proceed in the  
20 following manner:

21           **SECTION 61.** 46.03 (18) (f) of the statutes is amended to read:

22           46.03 (18) (f) Notwithstanding par. (a), any person who submits to an  
23 assessment or airman or driver safety plan under s. 23.33 (13) (e), <sup>(20)</sup> ~~23.335 (21) (a)~~, <sup>(g)</sup>  
24 30.80 (6) (d), 114.09 (2) (bm), 343.16 (5) (a), 343.30 (1q), 343.305 (10) or 350.11 (3) (d)  
25 shall pay a reasonable fee therefor to the appropriate county department under s.

← INSERT 44-  
20

1 51.42 or traffic safety school under s. 345.60. A county may allow the person to pay  
2 the assessment fee in 1, 2, 3 or 4 equal installments. The fee for the airman or driver  
3 safety plan may be reduced or waived if the person is unable to pay the complete fee,  
4 but no fee for assessment or attendance at a traffic safety school under s. 345.60 may  
5 be reduced or waived. Nonpayment of the assessment fee is noncompliance with the  
6 court order that required completion of an assessment and airman or driver safety  
7 plan. Upon a finding that the person has the ability to pay, nonpayment of the  
8 airman or driver safety plan fee is noncompliance with the court order that required  
9 completion of an assessment and airman or driver safety plan.

10 **SECTION 62.** 59.54 (14) (g) of the statutes is amended to read:

11 59.54 (14) (g) A county may establish extensions of the jail, which need not be  
12 at the county seat, to serve as places of temporary confinement. No person may be  
13 detained in such an extension for more than 24 consecutive hours, except that a court  
14 may order that a person subject to imprisonment under s. 23.33 (13) (b) 2. or 3. or (c),  
15 ~~23.335 (2) (b) 2. or 3.~~ <sup>(20) ✓ (c) ✓ or (d) ✓</sup> or 350.11 (3) (a) 2. or 3. or (b) be imprisoned for more than 24  
16 consecutive hours in such an extension. Jail extensions shall be subject to plans and  
17 specifications approval by the department of corrections and shall conform to other  
18 requirements imposed by law on jails, except that cells may be designed and used for  
19 multiple occupancy. <sup>any person</sup> ← INSERT 45-19

20 **SECTION 63.** 71.26 (1) (g) of the statutes is amended to read:

21 71.26 (1) (g) For taxable years beginning after December 31, 2006, the amount  
22 of any incentive payment received by ~~an individual~~ <sup>any person</sup> under s. 23.33 (5r) or 23.335 (13)  
23 in the taxable year to which the claim relates. ← INSERT 45-23

24 **SECTION 64.** 78.01 (2) (e) of the statutes is amended to read:

1           78.01 (2) (e) Gasoline sold for nonhighway use in mobile machinery and  
2           equipment; other than use in a snowmobile, in an off-highway motorcycle that is not  
3           registered for private use under s. 23.335 (3) (a) 1., in an all-terrain vehicle or utility  
4           terrain vehicle that is not registered for private use under s. 23.33 (2) (d), or in a  
5           recreational motorboat; and delivered directly into the consumer's storage tank in  
6           an amount of not less than 100 gallons.

7           **SECTION 65.** 78.01 (2m) (f) of the statutes is amended to read:

8           78.01 (2m) (f) It is dyed diesel fuel and is sold for off-highway use other than  
9           use in a snowmobile, in an off-highway motorcycle that is not registered for private  
10          use under s. 23.335 (3) (a) 1., in an all-terrain vehicle or utility terrain vehicle that  
11          is not registered for private use under s. 23.33 (2) (d) or (2g), or in a recreational  
12          motorboat or if no claim for a refund for the tax on the diesel fuel may be made under  
13          s. 78.75 (1m) (a) 3.

14          **SECTION 66.** 78.40 (1) of the statutes is amended to read:

15          78.40 (1) IMPOSITION OF TAX AND BY WHOM PAID. An excise tax at the rate  
16          determined under ss. 78.405 and 78.407 is imposed on the use of alternate fuels. The  
17          tax, with respect to all alternate fuel delivered by an alternate fuel dealer into supply  
18          tanks of motor vehicles in this state, attaches at the time of delivery and shall be  
19          collected by the dealer from the alternate fuels user and shall be paid to the  
20          department. The tax, with respect to alternate fuels acquired by any alternate fuels  
21          user other than by delivery by an alternate fuel dealer into a fuel supply tank of a  
22          motor vehicle, ~~or~~ of a snowmobile, of an off-highway motorcycle that is not registered  
23          for private use under s. 23.335 (3) (a) 1., of an all-terrain vehicle or utility terrain  
24          vehicle that is not registered for private use under s. 23.33 (2) (d) or (2g), or of a  
25          recreational motorboat, attaches at the time of the use of the fuel and shall be paid

1 to the department by the user. The department may permit any supplier of alternate  
2 fuels to report and pay to the department the tax on alternate fuels delivered into the  
3 storage facility of an alternate fuels user or retailer which will be consumed for  
4 alternate fuels tax purposes or sold at retail.

← INSERT 47-5

5 **SECTION 67.** 110.07 (1) (a) 1. of the statutes is amended to read:

6 110.07 (1) (a) 1. Enforce and assist in the administration of this chapter and  
7 chs. 194, 218, 341 to 349 and 351, and ss. 23.33, 23.335, 125.07 (4) (b), 125.085 (3)  
8 (b), 167.31 (2) (b) to (d) and 287.81 and ch. 350 where applicable to highways, or  
9 orders or rules issued pursuant thereto.

10 **SECTION 68.** 110.07 (3) of the statutes is amended to read:

11 110.07 (3) The secretary may employ inspectors who may not wear the uniform  
12 of the state patrol, whose duties shall be to enforce and assist in administering ~~s.~~ ss.  
13 23.33, 23.335, 346.63, this chapter and chs. 194, 218, 340 to 345 and 347 to 351, ~~s.~~  
14 23.33, the inspection requirements of s. 121.555 (2) (b) and the requirements under  
15 s. 346.45 (4) for vehicles being used to transport hazardous materials. Such  
16 inspectors, in the performance of these duties, shall have the powers and authority  
17 of state traffic officers. For the purpose of death, disability and retirement coverage,  
18 such inspectors shall be subject to ch. 40 as is the state traffic patrol. Subject to sub.  
19 (5), the secretary may clothe and equip inspectors as the interest of public safety and  
20 their duties require.

← INSERT  
47-20

21 **SECTION 69.** 322.111 of the statutes is amended to read:

22 **322.111 Article 111 — Drunken or reckless operation of an all-terrain**  
23 **vehiele, vehiele certain vehicles, snowmobile, aircraft, or vessel.** Any person  
24 who violates s. 23.33 (3) (a) or (4c), 23.335 (8) (a) 1. or (11) (a) or (b), 30.68, 30.681,  
25 114.09, 346.62, 346.63 (1) or (2), 350.10 (1) (b), 350.101, 940.25, or 940.09 where the

1 offense involved the operation or physical control of an aircraft, all-terrain vehicle,  
2 utility terrain vehicle, snowmobile, vehicle or vessel on or off a highway shall be  
3 punished as the court-martial may direct.

4 **SECTION 70.** 341.056 of the statutes is created to read:

5 **341.056 Off-highway motorcycles.** Limited use off-highway motorcycles,  
6 as defined in s. 23.335 (1) (n), are not required to be registered under this chapter but  
7 shall be registered under s. 23.335 (3).

8 **SECTION 71.** 343.05 (4) (b) 1m. of the statutes is created to read:

9 343.05 (4) (b) 1m. A person while operating a limited use off-highway  
10 motorcycle, as defined in s. 23.335 (1) (n).

11 **SECTION 72.** 345.11 (1r) of the statutes is amended to read:

12 345.11 (1r) The uniform traffic citation or the citation form under s. 23.54 shall  
13 be used for violations of s. 23.33 ~~relating or 23.335 that relate~~ to highway use or  
14 ordinances enacted in accordance with that section if the violation is committed on  
15 a highway, but no points may be assessed against the driving record of the operator  
16 of an all-terrain vehicle ~~or~~, utility terrain vehicle, or a limited use off-highway  
17 motorcycle, as defined in s. 23.335 (1) (n). When the uniform traffic citation is used,  
18 the report of conviction shall be forwarded to the department. When the citation  
19 form under s. 23.54 is used, the procedure in ss. 23.50 to 23.85 applies.

20 **SECTION 73.** 346.94 (1) of the statutes is amended to read:

21 346.94 (1) DRIVING ON SIDEWALK. Except as authorized in s. 23.33 (4) (f) or when  
22 the sidewalk is an all-terrain vehicle route, as defined in s. 23.33 (1) (c) or an  
23 off-highway motorcycle route, as defined in s. 23.335 (1) (s), the operator of a vehicle  
24 shall may not drive upon any sidewalk area except at a permanent or temporarily  
25 established driveway unless permitted to do so by the local authorities.



1           **SECTION 74.** 350.12 (3) (a) 1. of the statutes is amended to read:

2           350.12 (3) (a) 1. Except as provided under subs. (2) and (5) (cm), no person may  
3           operate and no owner may give permission for the operation of any snowmobile  
4           within this state unless the snowmobile is registered for public use or private use  
5           under this paragraph or s. 350.122 or as an antique under par. (b) and has the  
6           registration decals displayed as required under sub. (5) or s. 350.122 or unless the  
7           snowmobile has a reflectorized plate attached as required under par. (c) 3. A  
8           snowmobile that is not registered as an antique under par. (b) may be registered for  
9           public use. A snowmobile that is not registered as an antique under par. (b) and that  
10          is ~~used exclusively on private property, as defined under s. 23.33 (1) (n),~~ exclusively  
11          operated by the snowmobile owner or a member of his or her immediate family on  
12          land that is owned or leased by the snowmobile owner or his or her immediate family  
13          may be registered for private use. A snowmobile public-use registration certificate  
14          is valid for 2 years beginning on the July 1 prior to the date of application if  
15          registration is made prior to April 1 and beginning on the July 1 subsequent to the  
16          date of application if registration is made after April 1 and ending on June 30, 2 years  
17          thereafter. A snowmobile private-use registration certificate is valid from the date  
18          of issuance until ownership of the snowmobile is transferred. The fee for the issuance  
19          or renewal of a public-use registration certificate is \$30, except that the fee is \$5 if  
20          it is a snowmobile owned and operated by a political subdivision of this state. There  
21          is no fee for the issuance of a private-use registration certificate or for the issuance  
22          of a registration certificate to the state.

23          **SECTION 75.** 800.02 (2) (b) of the statutes is amended to read:

24          800.02 (2) (b) Except for parking violations, in traffic regulation actions in  
25          municipal court, the uniform traffic citation specified in s. 345.11 shall be used in lieu

1 of the citation form specified in par. (ag). In actions for violations of local ordinances  
2 enacted in accordance with s. 23.33 (11) (am), <sup>(18)</sup> ~~23.335 (18) (a)~~, or 30.77, the citation  
3 form specified in s. 23.54 shall be used in lieu of the citation form specified in par. (ag).

4 **SECTION 76.** 895.049 of the statutes is amended to read:

5 **895.049 Recovery by a person who fails to use protective headgear**  
6 **while operating certain motor vehicles.** Notwithstanding s. 895.045, failure by  
7 a person who operates or is a passenger on a utility terrain vehicle, as defined in s.  
8 23.33 (1) (ng), a motorcycle, as defined in s. 340.01 (32), an all-terrain vehicle, as  
9 defined in s. 340.01 (2g), or a snowmobile, as defined in s. 340.01 (58a), on or off a  
10 highway, to use protective headgear shall not reduce recovery for injuries or damages  
11 by the person or the person's legal representative in any civil action. This section  
12 does not apply to any person required to wear protective headgear under s. 23.33 (3g),  
13 23.335 (7) (a), or 347.485 (1).

14 **SECTION 77.** 901.053 of the statutes is amended to read:

15 **901.053 Admissibility of evidence relating to use of protective**  
16 **headgear while operating certain motor vehicles.** Evidence of use or nonuse  
17 of protective headgear by a person, other than a person required to wear protective  
18 headgear under s. 23.33 (3g), 23.335 (7) (a), or 347.485 (1), who operates or is a  
19 passenger on a utility terrain vehicle, as defined in s. 23.33 (1) (ng), a motorcycle, as  
20 defined in s. 340.01 (32), an all-terrain vehicle, as defined in s. 340.01 (2g), or a  
21 snowmobile, as defined in s. 340.01 (58a), on or off a highway, is not admissible in any  
22 civil action for personal injury or property damage. This section does not apply to  
23 the introduction of such evidence in a civil action against the manufacturer or  
24 producer of the protective headgear arising out of any alleged deficiency or defect in  
25 the design or manufacture of the protective headgear or, with respect to such use of

1 protective headgear, in a civil action on the sole issue of whether the protective  
2 headgear contributed to the personal injury or property damage incurred by another  
3 person.

4 **SECTION 78.** 938.17 (1) (intro.) of the statutes is amended to read:

5 938.17 (1) TRAFFIC, BOATING, SNOWMOBILE, ALL-TERRAIN VEHICLE, ~~AND UTILITY~~  
6 <sup>LIMITED</sup> TERRAIN VEHICLE, ~~AND OFF-HIGHWAY MOTORCYCLE~~ VIOLATIONS. (intro.) Except for  
7 violations of ss. 342.06 (2) and 344.48 (1), and violations of ss. 30.67 (1) and 346.67  
8 (1) when death or injury occurs, courts of criminal and civil jurisdiction have  
9 exclusive jurisdiction in proceedings against juveniles 16 years of age or older for  
10 violations of s. 23.33, of s. 23.335, of ss. 30.50 to 30.80, of chs. 341 to 351, and of traffic  
11 regulations, as defined in s. 345.20, and nonmoving traffic violations, as defined in  
12 s. 345.28 (1). A juvenile charged with a traffic, boating, snowmobile, all-terrain  
13 vehicle, ~~or utility terrain vehicle, or off-highway motorcycle~~ offense in a court of  
14 criminal or civil jurisdiction shall be treated as an adult before the trial of the  
15 proceeding except that the juvenile may be held in secure custody only in a juvenile  
16 detention facility. A juvenile convicted of a traffic, boating, snowmobile, all-terrain  
17 vehicle, ~~or utility terrain vehicle, or off-highway motorcycle~~ offense in a court of  
18 criminal or civil jurisdiction shall be treated as an adult for sentencing purposes  
19 except as follows:

20 **SECTION 79.** 940.09 (1m) (b) of the statutes is amended to read:

21 940.09 (1m) (b) If a person is charged in an information with any of the  
22 combinations of crimes referred to in par. (a), the crimes shall be joined under s.  
23 971.12. If the person is found guilty of more than one of the crimes so charged for  
24 acts arising out of the same incident or occurrence, there shall be a single conviction  
25 for purposes of sentencing and for purposes of counting convictions under s. 23.33

← INSERT  
51-19

(20) ✓  
(c) ✓  
1 (13) (b) 2. and 3., under s. 23.335 (21) (b) 2. and 3., under s. 30.80 (6) (a) 2. and 3.,  
2 under s. 343.307 (1) or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b),  
3 (bm), (c), (cm), (d), and (e) each require proof of a fact for conviction which the others  
4 do not require, and sub. (1g) (a), (am), (b), (c), (cm), and (d) each require proof of a fact  
5 for conviction which the others do not require.

6 **SECTION 80.** 940.09 (3) of the statutes is amended to read:

7 940.09 (3) An officer who makes an arrest for a violation of this section shall  
8 make a report as required under s. 23.33 (4t), 23.335 (11) (j), 30.686, 346.635 or  
9 350.106.

(20)  
10 **SECTION 81.** 940.25 (1m) (b) of the statutes is amended to read:

11 940.25 (1m) (b) If a person is charged in an information with any of the  
12 combinations of crimes referred to in par. (a), the crimes shall be joined under s.  
13 971.12. If the person is found guilty of more than one of the crimes so charged for  
14 acts arising out of the same incident or occurrence, there shall be a single conviction  
15 for purposes of sentencing and for purposes of counting convictions under s. 23.33  
16 (13) (b) 2. and 3., under s. 23.335 (21) (b) 2. and 3., under s. 30.80 (6) (a) 2. or 3., under  
17 ss. 343.30 (1q) and 343.305 or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am),  
18 (b), (bm), (c), (cm), (d), and (e) each require proof of a fact for conviction which the  
19 others do not require.

20 **SECTION 82.** 940.25 (3) of the statutes is amended to read:

21 940.25 (3) An officer who makes an arrest for a violation of this section shall  
22 make a report as required under s. 23.33 (4t), 23.335 (11) (j), 30.686, 346.635 or  
23 350.106.

24 **SECTION 83.** 973.09 (2) (a) 1. d. of the statutes is amended to read:

← INSERT 52-23

INSERT 53-3

**(END)**

**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0082/P1ins  
MGG:kjf:ph

**Insert 2-14**

**SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

	2013-14	2014-15
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**20.370 Natural resources, department of**

(1) LAND

(mw) *General program operations*  
*state off-highway motorcycle*

	SEG	A	-0-	-0-
--	-----	---	-----	-----

(3) ENFORCEMENT AND SCIENCE

(au) *Law enforcement*  
*motorcycle enforcement*

	SEG	A	-0-	-0-
--	-----	---	-----	-----

(5) CONSERVATION AIDS

(cz) *Recreation aids — off-highway*  
*motorcycle landowner incentive*  
*program*

	SEG	B	-0-	-0-
--	-----	---	-----	-----

(et) *Enforcement aids — off-highway*  
*motorcycle enforcement*

	SEG	A	-0-	-0-
--	-----	---	-----	-----

(ev) *Recreation aids — off-highway*  
*motorcycle project aids*

	SEG	A	-0-	-0-
--	-----	---	-----	-----

**SECTION 2.** 20.370 (1) (mw) of the statutes is created to read:

20.370 (1) (mw) *General program operations* <sup>em</sup> ~~(-)~~ *state off-highway motorcycle projects*. The amounts in the schedule from moneys received from off-highway motorcycle fees under s. 23.335 (4) <sup>✓</sup> and (5) <sup>✓</sup> for state off-highway motorcycle projects.

**SECTION 3.** 20.370 (3) (at) of the statutes is amended to read:

20.370 (3) (at) *Education and safety programs*. ~~For~~ The amounts in the schedule for programs or courses of instruction under ss. 23.33 (5) (d) 23.336 (2), 29.591, 30.74 (1) (a) and 350.055 (1). All moneys remitted to the department under ss. 23.33 (5) (d) 23.336 (2), 29.563 (12) (c) 2., 29.591 (3), 30.74 (1) (b), and 350.055 (1) shall be credited to this appropriation.

**History:** 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97; 2009 a. 28, 42, 50, 175, 276, 365, 373; 2011 a. 32, 103, 118, 148, 151, 169, 208; 2011 a. 257 s. 56; s. 13.92 (1) (bm) 2.

**SECTION 4.** 20.370 (3) (au) of the statutes is created to read:

20.370 (3) (au) *Law enforcement* <sup>m</sup> ~~(-)~~ *off-highway motorcycle enforcement*. The amounts in the schedule from moneys received from off-highway motorcycle fees under s. 23.335 (4) <sup>✓</sup> and (5) <sup>✓</sup> for state law enforcement operations related to off-highway motorcycles, including actual enforcement, safety training, accident reporting, and similar activities.

**Insert 3-2**

**SECTION 5.** 20.370 (5) (cz) of the statutes is created to read:

20.370 (5) (cz) *Recreation aids — off-highway motorcycle landowner incentive program*. Biennially, the amounts in the schedule from the moneys received by the department under s. 23.335 (6) for incentive payments to landowners for off-highway motorcycle corridors under s. 23.335 (13).

**SECTION 6.** 20.370 (5) (et) of the statutes is created to read:

1           20.370 (5) (et) *Enforcement aids — off-highway motorcycle enforcement.* The  
2 amounts in the schedule from moneys received from off-highway motorcycle fees  
3 under s. 23.335 (4) and (5) for local law enforcement aids.

4           **SECTION 7.** 20.370 (5) (ev) of the statutes is created to read:

5           20.370 (5) (ev) *Recreation aids — off-highway motorcycle project aids.* As a  
6 continuing appropriation, the amounts in the schedule from moneys received from  
7 off-highway motorcycle fees under s. 23.335 (4) and (5) to provide aid to towns,  
8 villages, cities, counties, and federal agencies for nonstate off-highway motorcycle  
9 projects.

10          **SECTION 8.** 20.370 (5) (gs) of the statutes is created to read:

11          20.370 (5) (gs) *Recreation aids — off-highway motorcycle project aids; gas tax*  
12 *payment.* As a continuing appropriation, an amount equal to the estimated  
13 off-highway motorcycle gas tax payment to provide aid to towns, villages, cities,  
14 counties, and federal agencies for nonstate off-highway motorcycle projects.

15          **SECTION 9.** 20.855 (4) (vm) of the statutes is created to read:

16          20.855 (4) (vm) *Transfer to conservation fund; utility terrain vehicle formula.*  
17 From the transportation fund, a sum sufficient in an amount equal to the amount to  
18 be paid into the conservation fund as determined under s. 25.29 (1) (dt). The amounts  
19 may be paid at such intervals during each fiscal year as the secretary of  
20 administration deems appropriate or necessary.

21          **SECTION 10.** 23.09 (23) (a) of the statutes is amended to read:

22          23.09 (23) (a) In this subsection, "approval" means any type of approval or  
23 authorization issued by the department under ch. 29, subch. V. of ch. 30, or s. 23.33



1 (2), 23.335 (3) or (5), <sup>plain</sup>27.01, or 350.12, including a license, permit, certificate, stamp,  
2 tag, registration, or vehicle admission receipt.

History: 1971 c. 40 s. 93; 1971 c. 125 s. 522 (1); 1971 c. 215, 277, 326; 1973 c. 251, 298, 333; 1975 c. 39 ss. 249, 249a, 250m, 734; 1975 c. 91, 200, 224, 365; 1977 c. 29, 402, 406; 1979 c. 34 ss. 699m to 701g, 2102 (39) (a); 1979 c. 89; 1981 c. 20 ss. 598 to 599s, 2202 (38) (c); 1981 c. 295; 1981 c. 390 s. 252; 1983 a. 27, 243; 1985 a. 29, 65, 322; 1985 a. 332 ss. 34, 251 (1); 1987 a. 27, 98, 295, 403; 1989 a. 31, 336, 359; 1991 a. 39, 269, 309; 1993 a. 16, 343, 436, 490; 1995 a. 27, 218, 257, 349, 417; 1997 a. 27, 35, 248, 313; 1999 a. 9, 32, 83; 2001 a. 38, 56, 104, 109; 2003 a. 33, 89; 2005 a. 25, 166, 286; 2007 a. 20; 2009 a. 276; 2011 a. 148; s. 13.92 (1) (bm) 2.; s. 35.17 correction in (23) (c).

3 **Insert 16-9**

4 beginning on April 1 or the date of issuance or renewal and ending March 31  
5 of the 2nd year following the date of issuance or renewal.

6 **Insert 16-12**

<sup>of s.</sup> <sup>at</sup> **\*\*\*\*NOTE:** The April/March time frame is needed because of the use of "the last day  
in February" in s. 25.29 (1) (d) 1.

7 **Insert 21-10**

8 9. Within 100 feet of <sup>a</sup>person who is not in or on an all-terrain vehicle, a utility  
9 terrain vehicle, a snowmobile, or a motorcycle, if the off-highway motorcycle is being  
10 operated on the frozen surface of public waters. <sup>e</sup>

11 **Insert 21-14**

12 (b) The speed restriction under par. (a) 7. does not apply to a <sup>✓</sup>race or derby  
13 sponsored by a local <sup>al unit</sup>unit of government, an off-highway association, as defined in  
14 s. 23.336 (1) (d), or a similar organization that is approved by the department <sup>✓</sup>if the  
15 sponsor of the <sup>✓</sup>race or derby marks the race or derby route or track to warn spectators  
16 from entering the route or track.

17 (c) The distance restriction under par. (a) 9. does not apply to <sup>✓</sup>persons who are <sup>al unit</sup>  
18 assisting in directing a race or derby sponsored by a local <sup>✓</sup>unit of government, an  
19 off-highway association, as defined in s. 23.336 (1) (d), or a similar organization that  
20 is approved by the department <sup>✓</sup>.

21 **Insert 32-22**

2. The restriction under par. (c) does not apply to a person who is operating an off-highway motorcycle at a demonstration event sponsored by a local unit of government, an off-highway association, as defined in s. 23.336 (1) (d), or a similar organization that is approved by the department, who is wearing protective headgear in compliance with sub. (7) (a), and who is accompanied by a parent or guardian.

\*\*\*\*NOTE: Note that the parent or guardian requirement above is more restrictive than the one found in sub. (12) (a) 1.

**Insert 34-23**

(b) If the operator of an off-highway motorcycle is involved in an accident that occurs on an off-highway motorcycle trail, an off-highway motorcycle route, or on other property that is open to the public for the use of off-highway motorcycles, the operator of each off-highway motorcycle involved shall give notice as provided in par. (a).

**Insert 38-19**

(20) PENALTIES. (a) *Generally.* Except as provided in pars. (b) to (e), any person who violates this section shall forfeit not more than \$250.

(b) *Penalty related to nonresident trail passes.* Any person who violates sub. (6) (a) shall forfeit not more than \$1,000.

(c) *Penalties related to intoxicated operation.* 1. Except as provided under subs. 2. and 3., a person who violates sub. (11) (a) 1. or 2. or (h) shall forfeit not less than \$150 nor more than \$300.

2. Except as provided under subd. 3., a person who violates sub. (11) (a) 1. or 2. or (h) and who, within 5 years prior to the arrest for the current violation, was convicted previously under the intoxicated operation of an off-highway motorcycle

1 law shall be fined not less than \$300 nor more than \$1,100 and shall be imprisoned  
2 not less than 5 days nor more than 6 months.

3 3. A person who violates sub. (11) (a) 1. or 2. or (h) and who, within 5 years prior  
4 to the arrest for the current violation, was convicted 2 or more times previously under  
5 the intoxicated operation of an off-highway motorcycle law shall be fined not less  
6 than \$600 nor more than \$2,000 and shall be imprisoned not less than 30 days nor  
7 more than one year in the county jail.

8 4. A person who violates sub. (11) (a) 3. or (h) and who has not attained the age  
9 of 21 shall forfeit not more than \$50.

\*\*\*\*NOTE: Section 23.33 has a penalty enhancer for intoxicated operation when  
there is an underage passenger involved. Do you want a similar provision? See s. 23.33  
(13) (bg).

\*\*\*\*NOTE: Section 23.33 has penalty enhancers that doubled, triple, and quadruple  
the fine depending on the level of the alcohol concentration of the operator. Do you want  
a similar provision? See. s. 23.33 (13) (br).

10 (d) *Penalties related to causing injury; intoxicants.* A person who violates sub.  
11 (11) (b) shall be fined not less than \$300 nor more than \$2,000 and may be imprisoned  
12 not less than 30 days nor more than one year in the county jail.

13 (e) *Calculation of previous convictions.* In determining the number of previous  
14 convictions under par. (c) 2. and 3., convictions arising out of the same incident or  
15 occurrence shall be counted as one previous conviction.

16 (f) *Reporting convictions to the department.* Whenever a person is convicted of  
17 a violation of the intoxicated operation of an off-highway motorcycle law, the clerk  
18 of the court in which the conviction occurred, or the justice, judge, or magistrate of  
19 a court not having a clerk, shall forward to the department the record of such  
20 conviction. The record of conviction forwarded to the department shall state whether  
21 the offender was involved in an accident at the time of the offense.

(g) *Intoxicants; assessment.* In addition to any other penalty or order, a person who violates sub. (11) (a), (b), or (h) shall be ordered by the court to submit to and comply with an assessment by an approved public treatment facility for an examination of the person's use of an intoxicant. The assessment order shall comply with s. 343.30 (1q) (c) 1. ~~a. to c.~~ Intentional failure to comply with an assessment ordered under this paragraph constitutes contempt of court, punishable under ch. 785.

**Insert 44-20**

**SECTION 11.** 25.29 (1) (b) of the statutes is amended to read:

25.29 (1) (b) One percent of all sales and use taxes under s. 77.61 (1) on all-terrain vehicles, utility terrain vehicles, off-highway motorcycles, boats, and snowmobiles collected under ss. 23.33, 23.335, 30.52 (4), 350.12 and 350.122.

History: 1971 c. 125; 1973 c. 90; 1977 c. 29; 1977 c. 418 ss. 244, 245, 929 (37); 1979 c. 34 ss. 707v, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1983 a. 27 ss. 636m, 637, 2202 (38); 1985 a. 29 ss. 638g, 3202 (39); 1985 a. 135; 1987 a. 27; 1987 a. 312 s. 17; 1989 a. 31; 1991 a. 39, 269; 1995 a. 27; 1995 a. 257 s. 3; 1997 a. 1, 27, 248; 1999 a. 9; 2001 a. 16, 56, 105; 2003 a. 166; 2007 a. 204; 2009 a. 28; 2011 a. 208.

**SECTION 12.** 25.29 (1) (dt) of the statutes is created to read:

25.29 (1) (dt) 1. For fiscal year 2014-15, and for each fiscal year thereafter, the estimated all-terrain vehicle gas tax payment is calculated by multiplying the total amount calculated under subd. 2. by 50 gallons and multiplying that product by the excise tax imposed under s. 78.01 (1) on the last day of February of the previous fiscal year.

2. For purposes of subd 1., the total amount shall be the sum of all of the following:

a. The number of off-highway motorcycles registered for public use under s. 23.335 (3) on the last day of February of the previous fiscal year.

b. The number of off-highway motorcycle registration decals issued under s. 23.335 (5)(a) during the previous fiscal year.

5 ✓

1 c. The number of nonresident trail passes issued under s. 23.33(6) during the  
2 previous fiscal year.

3 **SECTION 13.** 25.40 (3) (b) 14. of the statutes is amended to read:

4 25.40 (3) (b) 14. Transfers to the conservation fund for motor fuel tax collections  
5 on the use of fuel by snowmobiles, all-terrain vehicles, utility terrain vehicles,  
6 limited use off-highway motorcycles, and motorboats.

History: 1971 c. 125, 211; 1973 c. 90, 333; 1975 c. 39; 1975 c. 163 s. 16; 1975 c. 199; 1977 c. 29, 274, 418, 447; 1979 c. 34; 1979 c. 361 s. 113; 1981 c. 20; 1981 c. 347 s. 80 (2), (4); 1983 a. 27, 538; 1985 a. 16 s. 15; 1985 a. 29 ss. 638p, 3202 (51); 1985 a. 120 ss. 66, 3202 (56); 1985 a. 332; 1987 a. 3, 27, 110, 399, 403; 1989 a. 31, 102, 105, 359; 1991 a. 39, 104, 189, 269, 309, 315; 1993 a. 16, 123, 205, 253, 415, 437, 491; 1995 a. 27, 113, 201, 269, 280, 445; 1997 a. 27, 35, 41, 135, 237, 255; 1999 a. 9, 32, 92, 167; 2001 a. 16; 2003 a. 33, 139; 2005 a. 25, 45, 85, 179, 199, 260, 319; 2007 a. 42, 97, 107; 2009 a. 28, 100, 135, 224, 226; 2011 a. 32, 208; 2011 a. 260 s. 80.

7 **SECTION 14.** 30.26 (4) (title) of the statutes is amended to read:

8 30.26 (4) (title) ~~SNOWMOBILES, ALL TERRAIN VEHICLES, AND UTILITY TERRAIN~~  
9 OFF-HIGHWAY VEHICLES.

History: 2003 a. 248; 2009 a. 7, 32, 276; 2011 a. 208.

10 **SECTION 15.** 30.26 (4) (a) (intro.) of the statutes is amended to read:

11 30.26 (4) (a) (intro.) The department may not prohibit the crossing of a bridge  
12 over a wild river by an all-terrain vehicle or, utility terrain vehicle, or off-highway  
13 motorcycle, as defined in s. 23.335 (1) (p), traveling on an all-terrain vehicle trail,  
14 as defined under s. 23.33 (1) (d), or by a snowmobile traveling on a snowmobile trail,  
15 as defined under s. 350.01 (17) that is constructed in any of the following locations:

History: 2003 a. 248; 2009 a. 7, 32, 276; 2011 a. 208.

16 **SECTION 16.** 30.26 (4) (b) of the statutes is amended to read:

17 30.26 (4) (b) The state shall permit all-terrain vehicles, utility terrain vehicles,  
18 off-highway motorcycles, as defined in s. 23.335 (1) (p), and snowmobiles to travel  
19 in a corridor across any state land that separates an all-terrain vehicle trail or a  
20 snowmobile trail and the bridges constructed at the locations listed under par. (a).

History: 2003 a. 248; 2009 a. 7, 32, 276; 2011 a. 208.

21 **SECTION 17.** 30.29 (1) (b) of the statutes is amended to read:

30.29 (1) (b) "Motor vehicle" includes a utility terrain vehicle, as defined in s. 23.33 (1) (ng), ~~and~~ an all-terrain vehicle, as defined in s. 340.01 (2g) ~~and an~~ off-highway motorcycle, as defined in s. 23.335 (1) (p).

History: 1981 c. 189; 1987 a. 374; 1991 a. 39; 2003 a. 118; 2009 a. 28, 377; 2011 a. 208; 2011 a. 260 s. 80.

**Insert 45-19**

**SECTION 18.** 71.05 (6) (b) 44. of the statutes is amended to read:

71.05 (6) (b) 44. For taxable years beginning after December 31, 2006, the amount of any incentive payment received by an individual under s. 23.33 (5r) or 23.335 (13) in the taxable year to which the claim relates.

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25, 216, 254, 335, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28, 205, 265, 269, 276, 295, 332, 344; 2011 a. 3, 5, 10, 32, 212, 232, 237; 2011 a. 260 ss. 80, 81; s. 13.92 (1) (bm) 2., (2) (i).

**Insert 45-23**

**SECTION 19.** 71.45 (1) (b) of the statutes is amended to read:

71.45 (1) (b) For taxable years beginning after December 31, 2006, the amount of any incentive payment received by an individual insurer under s. 23.33 (5r) or 23.335 (13) in the taxable year to which the claim relates.

History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 85, 99, 135, 255, 326; 2005 a. 74, 297, 335, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28, 165, 205, 265, 269, 295, 332, 344; 2011 a. 3, 5, 32, 212, 232; 2011 a. 260 s. 80; 13.92 (2) (i).

**SECTION 20.** 77.51 (13s) of the statutes is amended to read:

77.51 (13s) "Safety classes" means all classes approved by the department of natural resources related to hunting, including hunting with a bow, and related to firearms, all-terrain vehicles, utility terrain vehicles, off-highway motorcycles, boats, and snowmobiles.

History: 1973 c. 333; 1975 c. 39, 41, 99, 224; 1975 c. 413 s. 18; 1977 c. 29, 418; 1979 c. 1 ss. 57 to 59, 61, 62; 1979 c. 174; 1981 c. 20; 1981 c. 79 s. 17; 1983 a. 23, 27; 1983 a. 189 ss. 92 to 108, 329 (12); 1983 a. 510, 538; 1983 a. 544 ss. 13 to 46, 47 (1) (b); 1985 a. 29, 332; 1987 a. 27, 399; 1989 a. 31, 335, 336; 1991 a. 39, 269, 316; 1993 a. 16, 112, 184; 1997 a. 27, 237; 1999 a. 9, 83; 2001 a. 45, 102; 2003 a. 48; 2005 a. 25, 327, 441, 479; 2007 a. 11, 20, 130; 2009 a. 2 ss. 225 to 345, 389; 2009 a. 12 s. 18; 2009 a. 28 ss. 1830b to 1836h, 1844 to 1846; 2009 a. 276, 330; 2011 a. 208.

**SECTION 21.** 77.73 (2) of the statutes is amended to read:

77.73 (2) Counties and special districts do not have jurisdiction to impose the tax under s. 77.71 (2) in regard to items, property, and goods under s. 77.52 (1) (b), (c), and (d), and tangible personal property, except snowmobiles, trailers,

1 semitrailers, limited use off-highway motorcycles, as defined in s. 23.335 (1) (n),  
2 all-terrain vehicles, and utility terrain vehicles, purchased in a sale that is  
3 consummated in another county or special district in this state that does not have  
4 in effect an ordinance or resolution imposing the taxes under this subchapter and  
5 later brought by the buyer into the county or special district that has imposed a tax  
6 under s. 77.71 (2).

History: 1985 a. 41; 1995 a. 56; 2009 a. 2, 28; 2011 a. 32, 208.

**Insert 47-5**

**SECTION 22.** 78.75 (1m) (a) 1. of the statutes is amended to read:

78.75 (1m) (a) 1. Except as provided under subds. 2. ~~and 2m.~~ to 2r., a person  
who uses motor vehicle fuel or an alternate fuel upon which has been paid the tax  
required under this chapter, for the purpose of operating a taxicab for the  
transportation of passengers, for the purpose of operating a motorboat exempt from  
registration as a motor vehicle under s. 341.05 (20) on privately owned land or for any  
purpose other than operating a motor vehicle upon the public highways, shall be  
reimbursed and repaid the amount of the tax paid upon making and filing a claim  
if the claim is for the tax on 100 gallons or more.

History: 1973 c. 33; 1977 c. 29; 1979 c. 221; 1981 c. 390 s. 252; 1983 a. 189 s. 329 (33); 1985 a. 29; 1987 a. 27; 1989 a. 31; 1993 a. 16, 437; 1995 a. 113, 408; 1997 a. 27, 291; 2011 a. 208.

**SECTION 23.** 78.75 (1m) (a) 2r. of the statutes is amended to read:

78.75 (1m) (a) 2r. A person who uses motor vehicle fuel or an alternate fuel upon  
which has been paid the tax required under this chapter for the purpose of operating  
an off-highway motorcycle, as defined under s. 23.335 (1) (p), may not be reimbursed  
or repaid the amount of tax paid unless the off-highway motorcycle vehicle is  
registered for private use under s. 23.335 (3) (a) 1.

History: 1973 c. 33; 1977 c. 29; 1979 c. 221; 1981 c. 390 s. 252; 1983 a. 189 s. 329 (33); 1985 a. 29; 1987 a. 27; 1989 a. 31; 1993 a. 16, 437; 1995 a. 113, 408; 1997 a. 27, 291; 2011 a. 208.

**SECTION 24.** 78.75 (1m) (a) 3. of the statutes is amended to read:

Section #. 322.111 of the statutes is amended to read:

certain vehicles, snowmobiles,  
vessels, and aircraft

**322.111 Article 111 — Drunken or reckless operation of an ~~all-terrain vehicle, utility ter-  
rain vehicle, vehicle, snowmobile, aircraft, or vessel~~** Any person who violates s. 23.33 (3)  
(a) or (4c), 30.68, 30.681, 114.09, 346.62, 346.63 (1) or (2), 350.10 (1) (b), 350.101, 940.25,  
or 940.09 where the offense involved the operation or physical control of ~~an aircraft, all-terrain  
vehicle, utility terrain vehicle, snowmobile, vehicle or vessel~~ on or off a highway shall be pun-  
ished as the court-martial may direct.

History: 2007 a. 200; 2011 a. 208.

a vehicle; including an  
all-terrain vehicle, utility terrain  
vehicle, or a snowmobile; a  
vessel; or an aircraft



78.75 (1m) (a) 3. Claims under subd. 1. shall be made and filed. The forms shall indicate that refunds are not available for motor vehicle fuel or alternate fuels used for motorboats, except motorboats exempt from registration as motor vehicles under s. 341.05 (20) and motorboats that are not recreational motorboats, or motor vehicle fuel or alternate fuels used for snowmobiles and that the estimated snowmobile motor vehicle fuel or alternate fuels tax payments are used for snowmobile trails and areas. The forms shall indicate that refunds are not available for motor vehicle fuel or alternate fuels used for all-terrain vehicles or utility terrain vehicles unless the vehicle is registered for private use under s. 23.33 (2) (d) or (2g) and shall indicate that estimated all-terrain vehicle or utility terrain vehicle motor vehicle fuel or alternate fuels tax payments are used for all-terrain vehicle trails and areas. The forms shall indicate that refunds are not available for motor vehicle fuel or alternate fuels used for off-highway <sup>✓</sup>motorcycles unless the <sup>motorcycle</sup>vehicle is registered for private use under s. 23.335 (3) (a) <sup>✓</sup>1. and shall indicate that estimated off-highway motorcycle fuel or alternate fuels tax payments are used for off-highway motorcycle trails and areas. The forms shall also indicate that refunds are not available for the tax on less than 100 gallons. The department shall distribute forms in sufficient quantities to each county clerk.

History: 1973 c. 33; 1977 c. 29; 1979 c. 221; 1981 c. 390 s. 252; 1983 a. 189 s. 329 (33); 1985 a. 29; 1987 a. 27; 1989 a. 31; 1993 a. 16, 437; 1995 a. 113, 408; 1997 a. 27, 291; 2011 a. 208.

**Insert 48-7**

**SECTION 25.** 341.057 of the statutes is amended to read:

**341.057 All-terrain vehicles and, utility terrain vehicles, and off-highway motorcycles.** All-terrain vehicles and utility terrain vehicles are not required to be registered under this chapter but shall be registered under s. 23.33 (2) or (2g). All motorcycles that are only being operated in accordance with s. 23.335 are

1 not required to be registered under this chapter but shall be registered as required  
2 under s.23.335 (2).

History: 1985 a. 29; 1997 a. 27; 2011 a. 208.

**Insert 48-10**

**SECTION 26.** 344.61 (1) of the statutes is amended to read:

344.61 (1) Notwithstanding s. 344.01 (2) (b), "motor vehicle" does not include trailers, semitrailers, all-terrain vehicles, and utility terrain vehicles, or limited off-highway motorcycles, as defined in s. 23.335 (1) (n).

History: 2009 a. 28; 2011 a. 208.

**Insert 48-20**

, as defined in s. 23.335(1)(n),

**SECTION 27.** 346.02 (11) of the statutes is amended to read:

346.02 (11) ~~APPLICABILITY TO ALL TERRAIN VEHICLES AND UTILITY TERRAIN~~  
~~OFF-HIGHWAY VEHICLES.~~ The operator of an all-terrain vehicle ~~or~~ a utility terrain vehicle or a limited use off-highway motorcycle on a roadway is subject to ss. 346.04, 346.06, 346.11, 346.14 (1), 346.18, 346.19, 346.20, 346.21, 346.215 (3), 346.26, 346.27, 346.33, 346.35, 346.37, 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50 (1) (b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.71, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92 (1) and 346.94 (1) and (9) but is not subject to any other provision of this chapter.

History: 1971 c. 125, 277; 1981 c. 390 s. 252; 1983 a. 243; 1985 a. 29, 69; 1989 a. 56 s. 259; 1989 a. 335 s. 89; 1995 a. 138; 2001 a. 90; 2009 a. 46; 2011 a. 208.

**SECTION 28.** 346.66 (1) (c) of the statutes is amended to read:

346.66 (1) (c) Sections 346.67 to 346.70 do not apply to accidents involving only snowmobiles, all-terrain vehicles, utility terrain vehicles, limited use off-highway motorcycles, as defined in s. 23.335 (1) (n), that were being operated in accordance with s. 23.335, or vehicles propelled by human power or drawn by animals.

History: 1971 c. 277; 1985 a. 29; 1995 a. 127; 2009 a. 62; 2011 a. 208.

**SECTION 29.** 346.71 (1) of the statutes is amended to read:

1           346.71 (1) Every coroner or medical examiner shall, on or before the 10th day  
2 of each month, report in writing any accident involving a motor vehicle occurring  
3 within the coroner's or medical examiner's jurisdiction resulting in the death of any  
4 person during the preceding calendar month. If the accident involved an all-terrain  
5 vehicle or utility terrain vehicle, the report shall be made to the department of  
6 natural resources and shall include the information specified by that department.  
7 If the accident involved an off-highway motorcycle, as defined in s. 23.335 (1) (p), the  
8 report shall be made to the department of natural resources and the department of  
9 transportation and shall include the information specified by each department. If  
10 the accident involved any other motor vehicle, the report shall be made to the  
11 department of transportation and shall include the information specified by ~~the~~ that  
12 department. The coroner or medical examiner of the county where the death occurs,  
13 if the accident occurred in another jurisdiction, shall, immediately upon learning of  
14 the death, report it to the coroner or medical examiner of the county where the  
15 accident occurred, as provided in s. 979.01 (1).

History: 1973 c. 272; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1983 a. 485; 1985 a. 29; 1987 a. 302; 1995 a. 27 s. 9126 (19); 2001 a. 90; 2007 a. 20 s. 9121 (6) (a); 2011 a. 208.

16           **SECTION 30.** 346.71 (2) of the statutes is amended to read:

17           346.71 (2) In cases of death involving a motor vehicle in which the decedent was  
18 the operator of a motor vehicle, a pedestrian 14 years of age or older or a bicycle or  
19 electric personal assistive mobility device operator 14 years of age or older and who  
20 died within 6 hours of the time of the accident, the coroner or medical examiner of  
21 the county where the death occurred shall require that a blood specimen of at least  
22 10 cc. be withdrawn from the body of the decedent within 12 hours after his or her  
23 death, by the coroner or medical examiner or by a physician so designated by the  
24 coroner or medical examiner or by a qualified person at the direction of the physician.

1 All funeral directors shall obtain a release from the coroner or medical examiner of  
2 the county where the accident occurred as provided in s. 979.01 (4) prior to  
3 proceeding with embalming any body coming under the scope of this section. The  
4 blood so drawn shall be forwarded to a laboratory approved by the department of  
5 health services for analysis of the alcoholic content of the blood specimen. The  
6 coroner or medical examiner causing the blood to be withdrawn shall be notified of  
7 the results of each analysis made and shall forward the results of each such analysis  
8 to the department of health services. If the death involved a motor vehicle, the  
9 department shall keep a record of all such examinations to be used for statistical  
10 purposes only and the department shall disseminate and make public the  
11 cumulative results of the examinations without identifying the individuals involved.  
12 If the death involved an all-terrain vehicle ~~or~~, utility terrain vehicle, or an  
13 off-highway motorcycle that was being operated in accordance with s. 23.335, the  
14 department of natural resources shall keep a record of all such examinations to be  
15 used for statistical purposes only and the department of natural resources shall  
16 disseminate and make public the cumulative results of the examinations without  
17 identifying the individuals involved.

**History:** 1973 c. 272; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1983 a. 485; 1985 a. 29; 1987 a. 302; 1995 a. 27 s. 9126 (19); 2001 a. 90; 2007 a. 20 s. 9121 (6) (a); 2011 a. 208.

**Insert 50-3**

**SECTION 31.** 814.63 (3m) (a) of the statutes is amended to read:

814.63 (3m) (a) Except as provided in par. (d), if a defendant is required to  
appear in court, in addition to any forfeiture, costs, fees, or surcharges it imposes, the  
court shall impose and collect from the defendant any costs charged to or paid by a  
law enforcement agency for the withdrawal of the defendant's blood if the court finds

that the defendant violated s. 23.33 (4c), 23.335 (11) (a) or (b), 30.681, 346.63, or 350.101, or a local ordinance in conformity therewith.

History: 1981 c. 317; 1985 a. 36; 1987 a. 27, 399; 1989 a. 22, 31, 64, 97, 107, 359; 1991 a. 26, 39, 130; 1993 a. 16, 167, 313; 1995 a. 27, 227, 349; 1997 a. 27, 248; 1999 a. 9, 72; 2001 a. 16; 2003 a. 30, 33, 139, 268, 327; 2005 a. 455; 2009 a. 12, 28, 100; 2011 a. 32, 258, 260.

**SECTION 32.** 814.65 (4m) (a) of the statutes is amended to read:

814.65 (4m) (a) Except as provided in par. (d), if a defendant is required to appear in municipal court, in addition to any forfeiture, costs, fees, or surcharges it imposes, the municipal court shall impose and collect from the defendant any costs charged to or paid by a law enforcement agency for the withdrawal of the defendant's blood if the court finds that the defendant violated a local ordinance in conformity with s. 23.33 (4c), 23.335 (11) (a) or (b), 30.681, 346.63, or 350.101.

History: 1981 c. 317; 1983 a. 107; 1987 a. 181, 389, 399, 403; 1989 a. 22; 1991 a. 26; 1997 a. 27; 2003 a. 30, 33, 320; 2005 a. 54, 455; 2007 a. 96; 2009 a. 28, 100, 121; 2011 a. 32.

**SECTION 33.** 885.235 (1m) of the statutes is amended to read:

885.235 (1m) In any action under s. 23.33 (4c) (a) 3., 23.335 (11) (a) 3., 30.681 (1) (bn), 346.63 (2m) or (7), or 350.101 (1) (c), evidence of the amount of alcohol in the person's blood at the time in question, as shown by chemical analysis of a sample of the person's blood or urine or evidence of the amount of alcohol in the person's breath, is admissible on the issue of whether he or she had an alcohol concentration in the range specified in s. 23.33 (4c) (a) 3., 23.335 (11) (a) 3., 30.681 (1) (bn), 346.63 (2m), or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7) if the sample was taken within 3 hours after the event to be proved. The fact that the analysis shows that the person had an alcohol concentration of more than 0.0 but not more than 0.08 is prima facie evidence that the person had an alcohol concentration in the range specified in s. 23.33 (4c) (a) 3., 23.335 (11) (a) 3., 30.681 (1) (bn), 346.63 (2m), or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7).

History: 1971 c. 40; 1973 c. 102; 1981 c. 20, 184; 1983 a. 74, 459; 1985 a. 146 s. 8; 1985 a. 331, 337; 1987 a. 3, 399; 1989 a. 105; 1991 a. 277; 1995 a. 436, 448; 1997 a. 35, 198; 2003 a. 30, 97; 2005 a. 8; 2011 a. 208.

**SECTION 34.** 885.235 (4) of the statutes is amended to read:

1           885.235 (4) The provisions of this section relating to the admissibility of  
2 chemical tests for alcohol concentration or intoxication or for determining whether  
3 a person had a detectable amount of a restricted controlled substance in his or her  
4 blood shall not be construed as limiting the introduction of any other competent  
5 evidence bearing on the question of whether or not a person was under the influence  
6 of an intoxicant, had a detectable amount of a restricted controlled substance in his  
7 or her blood, had a specified alcohol concentration, or had an alcohol concentration  
8 in the range specified in s. 23.33 (4c) (a) 3., 23.335 (11) (a) 3., 30.681 (1) (bn), 346.63  
9 (2m), or 350.101 (1) (c).

History: 1971 c. 40; 1973 c. 102; 1981 c. 20, 184; 1983 a. 74, 459; 1985 a. 146 s. 8; 1985 a. 331, 337; 1987 a. 3, 399; 1989 a. 105; 1991 a. 277; 1995 a. 436, 448; 1997 a. 35, 198; 2003 a. 30, 97; 2005 a. 8; 2011 a. 208.

**Insert 51-19**

11           **SECTION 35.** 938.343 (9) of the statutes is amended to read:

12           938.343 (9) ~~ALL TERRAIN OR UTILITY TERRAIN~~ OFF-HIGHWAY VEHICLE SAFETY  
13 COURSE PROGRAM REQUIREMENT. If the violation is one under s. 23.33 or 23.335 or under  
14 an ordinance enacted in accordance with s. 23.33 or 23.335 concerning the use of  
15 ~~all-terrain vehicles or utility terrain vehicles~~ <sup>an</sup> off-highway vehicle, as defined in s.  
16 23.336 (1) (j), order the juvenile to attend ~~an all-terrain vehicle or utility terrain~~  
17 ~~vehicle safety course~~ a safety certification program as specified under s. 23.336 (2).

History: 1995 a. 77, 352, 448; 1997 a. 84, 183, 197, 198, 205, 248; 1999 a. 9, 32, 185; 2001 a. 16; 2005 a. 344; 2009 a. 103, 367; 2011 a. 32, 208.

**Insert 52-23**

19           **SECTION 36.** 973.06 (1) (j) of the statutes is amended to read:

20           973.06 (1) (j) If the defendant violated s. 23.33 (4c), 23.335 (11) (a), (b) or (h).  
21 30.681, 346.63, 350.101, 940.09 (1), or 940.25, any costs charged to or paid by a law  
22 enforcement agency for the withdrawal of the defendant's blood, except that the court  
23 may not impose on the defendant any cost for an alternative test provided free of

charge as described in s. 343.305 (4). If at the time the court finds that the defendant committed the violation, the law enforcement agency has not paid or been charged with the costs of withdrawing the person's blood, the court shall impose and collect the costs the law enforcement agency reasonably expects to be charged for the withdrawal, based on the current charges for this procedure. Notwithstanding sub. (2), the court may not remit these costs.

History: Sup. Ct. Order, 67 Wis. 2d 585, 784 (1975); 1979 c. 356; 1981 c. 352; 1985 a. 29; 1987 a. 347, 398, 403; 1991 a. 39, 269; 1995 a. 27, 53, 448; 1999 a. 58, 69, 186; 2003 a. 104, 139; 2007 a. 84; 2009 a. 164; 2011 a. 32, 269.

**SECTION 37. 973.09 (2) (a) 1. d. of the statutes is amended to read:**

973.09 (2) (a) 1. d. A misdemeanor under s. 23.33 (4c) or (4p) (e), 23.335 (11) (a), (b) or (h) 30.681, 30.684 (5), 350.101, 350.104 (5), or 350.17 or a misdemeanor under s. 346.63 to which s. 973.09 (1) (d) applies.

History: 1971 c. 298; 1979 c. 119, 189, 238, 355, 356; 1981 c. 50, 88, 326, 352, 391; 1983 a. 27, 104, 254, 346, 519, 538; 1985 a. 150; 1987 a. 347, 398, 403, 412; 1989 a. 31, 121, 188; 1991 a. 39; 1993 a. 48, 486; 1995 a. 24, 224, 281; 1997 a. 27, 41, 289; 1999 a. 9, 58, 69, 186; 2001 a. 16, 104, 109; 2003 a. 33, 121, 139, 141; 2005 a. 25, 149, 451; 2007 a. 20, 84; 2009 a. 28, 100; 2011 a. 38, 266.

**Insert 53-3**

**SECTION 38. Effective dates.**

This act takes effect on the first day of the 7th month beginning after publication, except as follows:

(1) SUM CERTAIN APPROPRIATIONS. The treatment of sections 20.370 (1) (mw), (3) (au), and (5) (cz), (et), and (ev) of the statutes takes effect on first day of the 19th month beginning after publication.

or on the <sup>2nd</sup> ~~second~~ day after publication of the 2013-15 budget act, whichever is later

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0082/Adm.  
MGG.....

P2  
kf

Date

*governmental units*

Please review this draft carefully. There are embedded notes in the draft to assist you in your review.

Are there OHM trails and routes that are currently designated as such by DNR or local ~~units of government~~? If not, is the plan to establish new trails and routes? OHM owners may well not be willing to register their motorcycles with DNR without having any trails or routes immediately available. Is some start-up funding needed? Under the draft, the funding comes solely from the registration and trail pass fees and the gas tax which is based on the number of OHMs registered with DNR.

I have not included provisions that would parallel s. 23.33 (2g), which sets up the Lac du Flambeau registration program for ATVs and UTVs. OK?

I have not included provisions that would parallel s. 23.33 (2) (i), which establishes procedures for DNR to appoint persons to issue registration certificates and to collect fees for their services. OK?

In the drafting instructions there is mention of OHMs being modified for winter by adding a ski to the front wheel. If such an OHM would still meet the definition under s. 23.335 (1) (p), it would continue to be regulated under s. 23.335. However, if it is possible to modify an OHM so that it does not come within the scope of definition, and you want such a modified motorcycle to be covered under s. 23.335, additional drafting would be needed.

Section 25.29 (1) (b), as amended in this draft, will apply to all off-highway motorcycles, regardless of whether they are registered by DOT or DNR or not registered at all. OK?

Regarding 70.11 (45m): Are trail groomers used for off-highway motorcycles? If so, do you want them included in this statutory provision?

Regarding 100.48: Do you want to amend this section to include OHMs?

I have not amended various provisions in current law where the ATVs are listed to specifically include OHMs because I assume that the use of term "motor vehicle" or "vehicle" in these provisions already includes a motorcycle. To specifically include



and

"off-highway motorcycle" would infer that other types of motorcycles are excluded.

The provisions are as follows: ss. 29.001 (57), 30.29 (1) (b), 77.51 (13) (am), 77.53 (17), 77.53 (18), 77.54 (7) (b), 77.61 (1) (a), (b), and (c), 77.78, 78.40 (1), 167.31 (1) (h), 323.20, 347.415 (1m), 885.235 (1g) and (1k), 895.043 and (6) or "motorcycling"

Also, the following provisions use the term "motorcycle" so I did not amend them: ss. 348.01 (2) (d), 895.52 (1g), 895.523 (1) (c) (b), 1. b., and 895.525 (2).

I took out s. 23.335 (18) in the previous draft because s. 895.52 already covers motorcycling.

INS O-N

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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB  
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Type  
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Because this bill could become law after January 1, 2014, I have not included a reference to that date in the effective date provision in order to avoid a possible retroactive effective date. Also, because the budget bill repeals and recreates the appropriation schedule in chapter 20 of the statutes, I have included language in the effective date provision to ensure that the appropriations are created after the budget bill becomes law.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0082/P2dn  
MGG:kjf:jf

October 31, 2012

Please review this draft carefully. There are embedded notes in the draft to assist you in your review.

Are there OHM trails and routes that are currently designated as such by DNR or local governmental units? If not, is the plan to establish new trails and routes? OHM owners may well not be willing to register their motorcycles with DNR without having any trails or routes immediately available. Is some start-up funding needed? Under the draft, the funding comes solely from the registration and trail pass fees and the gas tax which is based on the number of OHMs registered with DNR.

I have not included provisions that would parallel s. 23.33 (2g), which sets up the Lac du Flambeau registration program for ATVs and UTVs. OK?

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Section 25.29 (1) (b), as amended in this draft, will apply to all off-highway motorcycles, regardless of whether they are registered by DOT or DNR or not registered at all. OK?

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"off-highway motorcycle" would infer that other types of motorcycles are excluded. The provisions are as follows: ss. 29.001 (57), 30.29 (1) (b), 77.51 (13) (am), 77.53 (17), 77.53 (18), 77.54 (7) (b), 77.61 (1) (a), (b), and (c), 77.78, 78.40 (1), 167.31 (1) (h), 323.20, 347.415 (1m), 885.235 (1g) and (1k), and 895.043 (6).

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From Drafter's Note dtd 31 Oct 12.

for/P3

✓ Are there OHM trails and routes that are currently designated as such by DNR or local governmental units? **YES** If not, is the plan to establish new trails and routes? **YES** OHM owners may well not be willing to register their motorcycles with DNR without having any trails or routes immediately available. **UNDERSTOOD** Is some start-up funding needed? **NO, funds will accumulate during the time it takes to develop projects.** Under the draft, the funding comes solely from the registration and trail pass fees and the gas tax which is based on the number of OHMs registered with DNR.

no  
drafting

✓ I have not included provisions that would parallel s. 23.33 (2g), which sets up the Lac du Flambeau registration program for ATVs and UTVs. OK? **OK**

no  
drafting

I have not included provisions that would parallel s. 23.33 (2) (i), which establishes procedures for DNR to appoint persons to issue registration certificates and to collect fees for their services. OK? **I think we need to standardize with ATV.**

(i) *Registration; issuers.* For the issuance of original or duplicate registration documentation and for the transfer or renewal of registration documentation, the department may do any of the following:

done

1. Directly issue, transfer, or renew the registration documentation with or without using the service specified in par. (ig) 1.
3. Appoint persons who are not employees of the department as agents of the department to issue, transfer, or renew the registration documentation using either or both of the services specified in par. (ig) 1.

In the drafting instructions there is mention of an OHM being modified for winter by adding a ski to the front wheel. If such an OHM would still meet the definition under s. 23.335 (1) (p), it would continue to be regulated under s. 23.335. However, if it is possible to modify an OHM so that it does not come within the scope of the definition, and you want such a modified motorcycle to be covered under s. 23.335, additional drafting will be needed. **Have not come up with a case making this an issue (yet).**

no  
drafting

(p) "Off-highway motorcycle" means a two-wheeled motor vehicle that is straddled by the operator, that is equipped with handlebars, and that is designed for use off of a highway, regardless of whether it is also designed for use on a highway.

Section 25.29 (1) (b), as amended in this draft, will apply to all off-highway motorcycles, regardless of whether they are registered by DOT or DNR or not registered at all. OK? **Yes, but may be a challenge to identify dual purpose MCs.**

no drafting

25.29 (1) (b) One percent of all sales and use taxes under s. 77.61 (1) on

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